INHERITANCE AND DOMINION

Volume 2

INHERITANCE AND DOMINION

AN ECONOMIC COMMENTARY ON DEUTERONOMY

Volume 2

GARY NORTH

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Inheritance and Dominion: An Economic Commentary on Deuteronomy, Volume 2

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COMMON GRACE AND LEGITIMATE INHERITANCE

> *These are the statutes and judgments, which ye shall observe to do in the land, which the* LORD *God of thy fathers giveth thee to possess it, all the days that ye live upon the earth. Ye shall utterly destroy all the places, wherein the nations which ye shall possess served their gods, upon the high mountains, and upon the hills, and under every green tree: And ye shall over throw their altars, and break their pillars, and burn their groves with fire; and ye shall hew down the graven images of their gods, and destroy the names of them out of that place.*
>
> DEUTERONOMY 12:1–3

The theocentric focus of this law is the illegitimacy of all other forms of worship. The passage is preceded by a call to obedience: "And ye shall observe to do all the statutes and judgments which I set before you this day" (Deut. 11:32).

A. Illegitimate Gods

In the case of the gods of Canaan, illegitimacy meant illegality. To destroy the name of every god of Canaan was a morally mandatory act on the part of the Israelites. There was no neutrality possible. There also was no possibility of a nameless God in Israel. Either God's name would be destroyed inside the boundaries of Israel or else the Canaanite gods' names would be destroyed. God made it clear: their idols had to be smashed. As with their idols, so with their names: total elimination. "... make no mention of the name of other gods, neither let it be heard out of thy mouth" (Ex. 23:13b). This was a land law.[1] It is no longer in force. It had to do with the destruction of Canaanite civilization and the theology of the ancient world: Canaan's gods as local deities tied to the land.

God refused to accept equality with other deities. This is as true under the New Covenant as it was in the Old. "Then Paul stood in the midst of Mars' hill, and said, Ye men of Athens, I perceive that in all things ye are too superstitious. For as I passed by, and beheld your devotions, I found an altar with this inscription, TO THE UNKNOWN GOD. Whom therefore ye ignorantly worship, him declare I unto you" (Acts 17:22–23). The Athenians had added an unidentified god to their pantheon of deities just to make sure some unacknowledged god would not bring negative sanctions against them because they had ignored him. The God of the Bible was being treated by Athens as if He were one of these nameless gods. But the God of the Bible cannot be placated with an altar to no god in particular, or with any altar at all. Paul announced: "God that made the world and all things therein, seeing that he is Lord of heaven and earth, dwelleth not in temples made with hands; Neither is worshipped with men's hands, as though he needed any thing, seeing he giveth to all life, and breath, and all things" (Acts 17:24–25). An occasional public sacrifice does not impress Him. He is the Creator God. What God demands is the sacrifice of every person's life, in every area of his life. "I beseech you therefore, brethren, by the mercies of God, that ye present your bodies a living sacrifice, holy, acceptable unto God, which is your reasonable service" (Rom. 12:1). God calls all men to devote the whole of their lives.[2] This has to include civil affairs. But the modern church rejects this conclusion.

B. Smashing Idols

The conquest of Canaan was a military action. The Canaanites were to be completely destroyed (Deut. 7:1–5).[3] After the destruction of Canaan, only the Amalekites deserved total destruction, because of the evil they had shown to Israel during Israel's wilderness wandering. God had established a covenant of total destruction with Israel against Amalek: "And the LORD said unto Moses, Write this for a memorial in a book, and rehearse it in the ears of Joshua: for I will utterly put out the remembrance of Amalek from under heaven. And Moses built an altar, and called the name of it Jehovah-nissi: For he said, Because the LORD hath sworn that the LORD will have war with Amalek from generation to generation" (Ex. 17:14–16). Samuel reminded

2. Gary North, *Cooperation and Dominion: An Economic Commentary on Romans*, 2nd ed. (Dallas, Georgia: Point Five Press, [2001] 2012), ch. 9.

3. Chapter 16.

Saul of this covenant: "Samuel also said unto Saul, The LORD sent me to anoint thee to be king over his people, over Israel: now therefore hearken thou unto the voice of the words of the LORD. Thus saith the LORD of hosts, I remember that which Amalek did to Israel, how he laid wait for him in the way, when he came up from Egypt. Now go and smite Amalek, and utterly destroy all that they have, and spare them not; but slay both man and woman, infant and suckling, ox and sheep, camel and ass" (I Sam. 15:1–3). Saul lost his kingship for showing mercy to Amalek's king and also for allowing the Israelites to keep Amalek's domesticated animals as spoils.[4] Samuel hacked Agag to pieces in order to demonstrate God's covenant of total destruction (I Sam. 15:33). This was an extension of a pre-conquest covenant of destruction. After Canaan was captured, no new war of annihilation was valid (Deut. 20:10–18).[5]

That the annihilation of Canaan was to be a one-time event is seen in the jubilee inheritance law. Every half century, ownership of every piece of rural land reverted back to the heirs of the families of the conquest generation (Lev. 25:13).[6] But after Israel's return from the exile, the jubilee law was to be altered. "And it shall come to pass, that ye shall divide it by lot for an inheritance unto you, and to the strangers that sojourn among you, which shall beget children among you: and they shall be unto you as born in the country among the children of Israel; they shall have inheritance with you among the tribes of Israel. And it shall come to pass, that in what tribe the stranger sojourneth, there shall ye give him his inheritance, saith the Lord GOD" (Ezek. 47:21–23).[7] Non-Israelites were not to be driven out, nor were they to be disinherited. Why not? Because the gods of Canaan by then had been annihilated in the hearts of men.

4. "But Saul and the people spared Agag, and the best of the sheep, and of the oxen, and of the fatlings, and the lambs, and all that was good, and would not utterly destroy them: but every thing that was vile and refuse, that they destroyed utterly. Then came the word of the LORD unto Samuel, saying, It repenteth me that I have set up Saul to be king: for he is turned back from following me, and hath not performed my commandments" (I Sam. 15:9–10).

5. Chapter 47.

6. Gary North, *Boundaries and Dominion: An Economic Commentary on Leviticus*, 2nd ed. (Dallas, Georgia: Point Five Press, [1994] 2012), ch. 24.

7. Gary North, *Restoration and Dominion: An Economic Commentary on the Prophets* (Dallas, Georgia: Point Five Press, 2012), ch. 22.

C. God, Stars, and History

The ancient world believed that to defeat a city was to defeat that city's god or gods. To the degree that a conquering army spared the lives of the citizens of a defeated city, to that extent was mercy granted by the conquerors' god to the losers' god. To build an empire, a conquering nation either had to remove the citizens of a defeated city and replace them with people who worshipped the empire's gods, or else the empire had to incorporate the defeated city's gods into the pantheon of the empire. Where no provision for such incorporation existed theologically in the culture of the victor, the victor had to annihilate or completely dispossess the losers. This meant destroying all traces of their gods.

It was assumed that the gods of the two armies battled each other. In other words, what took place on the battlefield was matched by a conflict in heaven.[8] If there was conflict on the battlefield, there had to be conflict in heaven. There was no cosmic unity in paganism's nature; there was no absolute God who controlled what comes to pass in history. "On first looking upon the external world, man pictured it to himself as a sort of confused republic, where rival forces made war upon each other."[9] Two ways to conceive of unity in the cosmos, through impersonal forces, are by fate and astrology. The belief that the heavens above are related to events on the earth below is the theoretical basis of astrology, a common belief in the ancient world and even today.

The ancient world believed that the heavens were related to earthly history. Immanuel Velikovsky went so far as to argue that the Greek myth that Athena was born out of Zeus' forehead had its origin in the fact that the planet Venus was born in historical times: a spin-off (literally) of the planet Jupiter. Venus was originally a comet, he said, and it caused the events of the exodus.[10] While I do not think he was correct—God did not use Venus to bring the plagues of the exodus on Egypt—there is no doubt that the heavens and the gods were closely associated in ancient thought. This includes biblical thought. "The kings came and fought, then fought the kings of Canaan in Taanach by the waters of Megiddo; they took no gain of money. They fought

8. Fustel de Coulanges, *The Ancient City: A Study on the Religion, Laws, and Institutions of Greece and Rome* (Garden City, New York: Doubleday Anchor, [1864] 1955), Book III, Chapter XV, pp. 205–6.

9. *Ibid.*, III:II, p. 121.

10. Immanuel Velikovsky, *Worlds in Collision* (Garden City, New York: Doubleday, 1950), p. 172.

from heaven; the stars in their courses fought against Sisera" (Jud. 5:19–20). This is not to be interpreted literally; these words appear in Deborah's song. Songs are exercises in symbolism.

There is a biblical analogy between stars and earthly affairs. The king of Babylon was described with an angelic-heavenly analogy: a star-angel who sought to surpass God's other star-angels. "How art thou fallen from heaven, O Lucifer, son of the morning! how art thou cut down to the ground, which didst weaken the nations! For thou hast said in thine heart, I will ascend into heaven, I will exalt my throne above the stars of God: I will sit also upon the mount of the congregation, in the sides of the north: I will ascend above the heights of the clouds; I will be like the most High" (Isa. 14:12–14). (Lucifer was the morning star in the ancient world, i.e., Venus, but only when it preceded the appearance of the sun. It was called Hesperos when it followed the sun.) The host of heaven is described as stars.

> And out of one of them came forth a little horn, which waxed exceeding great, toward the south, and toward the east, and toward the pleasant land. And it waxed great, even to the host of heaven; and it cast down some of the host and of the stars to the ground, and stamped upon them (Dan. 8:9–10).

> And the stars of heaven fell unto the earth, even as a fig tree casteth her untimely figs, when she is shaken of a mighty wind (Rev. 6:13).

> And there appeared another wonder in heaven; and behold a great red dragon, having seven heads and ten horns, and seven crowns upon his heads. And his tail drew the third part of the stars of heaven, and did cast them to the earth: and the dragon stood before the woman which was ready to be delivered, for to devour her child as soon as it was born (Rev. 12:3–4).

Literal stars did not fall on earth, nor will they, contrary to dispensationalism's proclaimed hermeneutics of prophetic literalism.[11] God defeated Satan's angelic host in history because of the incarnation of Jesus Christ in history. Satan and his host were cast out of heaven in the days of John's Apocalypse. In fact, the full transition from the Old Covenant to the New Covenant was marked by the casting down of Satan to earth. Preliminary phases of this casting down began during Christ's ministry. "And the seventy returned again with joy, saying, Lord, even the devils are subject unto us through thy name.

11. Charles Caldwell Ryrie, *Dispensationalism Today* (Chicago: Moody Press, 1965), pp. 45–46. Cf. Ryrie, *Dispensationalism* (Chicago: Moody Press, 1995), p. 40.

And he said unto them, I beheld Satan as lightning fall from heaven" (Luke 10:17–18). The final act of Satan's heavenly disinheritance was post-crucifixion.

> And there was war in heaven: Michael and his angels fought against the dragon; and the dragon fought and his angels, And prevailed not; neither was their place found any more in heaven. And the great dragon was cast out, that old serpent, called the Devil, and Satan, which deceiveth the whole world: he was cast out into the earth, and his angels were cast out with him. And I heard a loud voice saying in heaven, Now is come salvation, and strength, and the kingdom of our God, and the power of his Christ: for the accuser of our brethren is cast down, which accused them before our God day and night. **And they overcame him by the blood of the Lamb, and by the word of their testimony**; and they loved not their lives unto the death. Therefore rejoice, ye heavens, and ye that dwell in them. Woe to the inhabiters of the earth and of the sea! for the devil is come down unto you, having great wrath, because he knoweth that he hath but a short time. And when the dragon saw that he was cast unto the earth, he persecuted the woman which brought forth the man child (Rev. 12:7–13).

My point here is that the ancient world viewed reality as a supernatural realm. Men, local gods, and the heavenly orbs interacted in history. For example, the appearance of the star of Bethlehem was noted by non-Jewish star-gazers. They also understood what it meant: the birth of a long-prophesied king. They asked Herod: "Where is he that is born King of the Jews? for we have seen his star in the east, and are come to worship him" (Matt. 2:2). With the end of the Old Covenant, these cosmic relationships ceased. The fall of Jerusalem in A.D. 70 completed the prophecies regarding stars falling from heaven: the end of the Old Covenant order and with it, the Mosaic order, with its temple sacrifices. Prior to A.D. 70, there were good reasons to believe in connections between the heavens and the earth. These reasons were covenantal, not astrological or astronomical. Men were to acknowledge that God governs both heaven and earth. *The world is governed in terms of ethics, for God created the world*. The prophet Amos said: "Ye who turn judgment to wormwood, and leave off righteousness in the earth, Seek him that maketh the seven stars and Orion, and turneth the shadow of death into the morning, and maketh the day dark with night: that calleth for the waters of the sea, and poureth them out upon the face of the earth: The LORD is his name: That strengtheneth the spoiled against the strong, so that the spoiled shall come against the fortress. They hate him that rebuketh in the gate, and they abhor him that speaketh uprightly" (Amos 5:7–10).

D. Genocide as Deicide

The destruction of Canaan would necessarily involve the destruction of Canaan's gods, Moses announced. A defeated army meant the defeat of that army's gods. This was the theology of Canaan and the nations around Canaan.

This was not biblical theology. A defeat of Israel on the battlefield would be a sanction against the nation for its unrighteousness. The Israelites would be subjected militarily or carried into captivity as God's predictable sanction against national rebellion, Moses repeatedly warned. This would not testify to God's weakness, but to His sovereignty. The victors who thought otherwise would be punished. "For thus saith the LORD of hosts; After the glory hath he sent me unto the nations which spoiled you: for he that toucheth you toucheth the apple of his eye. For, behold, I will shake mine hand upon them, and they shall be a spoil to their servants: and ye shall know that the LORD of hosts hath sent me" (Zech. 2:8–9). Only with the transfer of the kingdom's inheritance to a new nation, the church of Jesus Christ, would final destruction come to Old Covenant Israel. Jesus warned Israel's leaders: "Therefore say I unto you, The kingdom of God shall be taken from you, and given to a nation bringing forth the fruits thereof" (Matt. 21:43). This was an implied threat: the destruction of Israel except insofar as Israel united covenantally with this new nation in terms of the New Covenant (Rom. 11).[12]

Canaanite culture was so evil in God's sight that it had to be destroyed. Israel would soon serve as God's sanctions-bringer in history. There was to be no mercy shown, because the evil of Canaanite culture was too great. To show mercy to the Canaanites would be the equivalent of accepting the evils which they had practiced. It would be a grant of mercy to their gods. This is why Moses demanded the total annihilation of both men and idols. By publicly removing the Canaanites from history, God would demonstrate His wrath against evil. He had already partially done this with Egypt. This partial destruction had terrified the Canaanites, according to Rahab (Josh. 2:9–11). God had already done it completely with the Canaanite cultures beyond the Jordan: Arad and Bashan.

The gods of the land of Canaan would become a snare to Israel. The very survival of these gods would testify either to Israel's military weakness (the biblical view) or God's inability to bring to pass what

12. North, *Cooperation and Dominion*, ch. 8.

He had promised to Abraham: full inheritance (Canaan's view). Such military weakness would be interpreted by Israel in terms of Canaanite theology: the partially successful defense of Canaan's old order against the new order of Israel. That is, the gods of Canaan would be seen as possessing partial sovereignty in history. The absolute sovereignty of God would be understood by covenant-breaking Israelites as a myth because of the very survival of Canaan's gods and Canaan's original residents. In short, neither mercy nor military weakness was allowed to Israel by God during this one-time conquest.

The gods of the ancient world were local gods: gods of the city or family. These gods were said to rule within certain geographical boundaries. Their power was tied to geography and to the rites practiced by their followers. Fustel wrote of classical religion, "There was nothing more sacred within the city than this altar, on which the sacred fire was always maintained."[13] In Roman religion, a break in the fire's continuity was considered catastrophic. Any Vestal virgin who allowed Rome's sacred fire to go out in the was buried alive as a sanction.[14]

The perpetual fire on God's altar became central liturgically to Mosaic Israel (Lev. 6:13), but this had not been true in pre-Mosaic covenantal religion, nor would it be true during Israel's future captivity. Israel as a nation could continue to exist and even prosper without this altar, as the Assyrian-Babylonian captivity later indicated, but God did demand sacrifice inside the land, and the altar's fire was basic to this requirement. The fiery altar represented purification, as it did in all ancient religions, but *this purification was judicially representative, not magical*. It did not cleanse anything based on its heat or its transformation of the cosmos. It judicially represented God's sanction on sin. It applied to dead animals' flesh and the fruits of the field the punishment that man deserved. It did not feed God. Israel's religion was judicial religion, not magical religion.

Israel was told to break down Canaan's altars. There could be no rival sacred fire in Israel—not in the home, the city, or anywhere else. "Burn their groves with fire," Moses said. These destructive fires were not sacred fires. They were merely military acts. It did not require a Mosaic priest to officiate at the destruction of a sacred Canaanite altar. So it would be for Israel in A.D. 70, when Roman soldiers burned the temple. No priest officiated. This fire ended the sacred character

13. Fustel, *Ancient City*, III:VI, p. 146.
14. *Ibid.*, p. 147.

of fire in Israel.[15] Judaism, a replacement religion of Old Covenant Israel,[16] has no sacred fire and no burnt offerings.

E. The Spoils of War and Common Grace

The destruction of Canaan's altars served as a representative destruction of Canaan's culture. With the exception of Jericho, which had to be completely destroyed, the economic inheritance of Canaan became part of Israel's inheritance. If the Israelites killed the Canaanites and smashed their implements of worship, they were entitled to the spoils of war.

This means that the products of a culture are not inherently tainted by the ethics of that culture. This fact legitimizes trade. It is neither ritually polluting nor immoral to exchange goods and services with someone who practices a rival religion. The fact that a Canaanite had created something of value as a testament to his own faith or religious premises did not pollute the item he created unless it was actually used in some cultic rite. Canaan's sacred implements were targeted for destruction, but the common implements of life that testified to the Canaanites' false view of the sacred became legitimate spoils of war.

This points to a theological distinction between common grace and special rebellion. The sacred groves of Canaan were in fact unholy groves, i.e., profane groves in which covenant-breakers transgressed God's standards of righteous worship. The lawful boundaries of God's sacred worship had been violated repeatedly in Canaan, which is why their groves were profane. That which is profane is sacred space that has been violated by a transgression.[17] Special rebellion had polluted these groves so thoroughly that Israel had to smash them. But the other aspects of Canaan's culture—orchards, houses, fields, etc.—were part of the realm of the common. They were neither sacred nor profane. The realm of the common is analogous to the trees of Eden, except for the forbidden tree and tree of life after the Fall: open to all men without covenantal restriction. Thus, the capital of Canaan, like the capital of Egypt, could lawfully become part of Israel's inheritance.

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15. Jacob Neusner, *An Introduction to Judaism: A Textbook and Reader* (Louisville, Kentucky: Westminster/John Knox Press, 1991), p. 157.

16. Jacob Neusner, *Judaism and Scripture: The Evidence of Leviticus Rabbah* (Chicago: University of Chicago Press, 1986), p. xi.

17. On sacred, profane, and common, see North, *Boundaries and Dominion*, ch. 6D, H.

Common grace is defined as God's unmerited gifts to men irrespective of their covenantal confessions.[18] Men do not earn these gifts, nor is God required to provide these gifts by anything other than His autonomous choice. But, by His healing common grace, God enables men of many religious confessions to become productive. This productivity benefits mankind. In the final analysis, God does this for the sake of His people, who will progressively inherit the earth in history.

If the saints will not inherit in history, then the productivity and wealth of covenant-breakers are supplied by God primarily for the purpose of condemning them in eternity, as the rich man in the parable was condemned (Luke 16:19–25).[19] Their very productivity will condemn them: "For unto whomsoever much is given, of him shall be much required: and to whom men have committed much, of him they will ask the more" (Luke 12:48b).[20] There would therefore be no continuity between the process of inheritance and disinheritance in history and God's declaration of final inheritance and disinheritance in eternity. The process of corporate covenantal sanctions in history would then have nothing predictable to do with the corporate sanctions in eternity: saved vs. lost.[21] In short, the bodily resurrection and ascension of Christ in history—God's positive sanctions for Christ's perfect covenant-keeping—would have nothing predictable to do with the outcome of the Great Commission in history (Matt. 28:18–20).[22] This, few Christian theologians are willing to affirm explicitly, yet most of them hold such a viewpoint.

The complete disinheritance of Canaan was God's means of destroying the works of unrighteous men. But, rather than destroying their capital assets, God through Israel destroyed them and their ritual implements for worshipping their gods. Even in the unique case of Jericho's assets, the precious metals were to go to the temple (Josh. 6:19). The special grace of God would thereby overcome the special rebellion of Jericho.

Because of the extent of the rebellion of the Canaanites, Israel

18. Gary North, *Dominion and Common Grace: The Biblical Basis of Progress* (Tyler, Texas: Institute for Christian Economics, 1987), ch. 1.

19. Gary North, *Treasure and Dominion: An Economic Commentary on Luke*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 40.

20. *Ibid.*, ch. 28.

21. Gary North, *Millennialism and Social Theory* (Tyler, Texas: Institute for Christian Economics, 1990), ch. 7.

22. Gary North, *Priorities and Dominion: An Economic Commentary on Matthew*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 48.

could not lawfully enslave them. Canaanites were not allowed to remain inside the boundaries of the land. To have allowed this would have meant allowing the continuing presence of agents of Canaan's local deities. They would become evangelists for a false religion. Because pagan religion was expressly a religion of the land, the mere presence of Canaanites would testify falsely to the partial sovereignty of Canaan's gods. Any assertion of the partial sovereignty of any god except the Bible's God is inescapably a denial of the religion of the Bible. Thus, the presence of Canaanites inside Israel's boundaries posed too great a threat for Israel to bear safely. The Israelites would eventually interpret the mere presence of Canaanites as a partial victory of Canaan's gods over Moses' God, rather than blaming their own fears and their disobedience to God. Such a false view of God would lead to Israel's rebellion and false worship: idolatry.

The trickery of the Gibeonites overcame this rule, but they became slaves to the temple (Josh. 9:27). Individual Israelites could not profit from the trickery of Gibeon; the Levites alone did. The special grace of God overcame His declaration of genocide against Gibeon, but the priestly tribe alone profited. The Gibeonites and their labor did not become part of the common grace inheritance of individual families outside of Levi. Only Levi's burdens would be reduced.

F. Genocide and Economic Inheritance

The annihilation of Canaan's population and the destruction of Canaan's implements of worship were mandated by God in order to demonstrate His absolute sovereignty. The Canaanites had rebelled long enough. Their evil had compounded too far for God to tolerate it any longer. Their cup of iniquity was full (Gen. 15:16).[23] In terms of the pagan theology of the ancient world, the continuing toleration of Canaan would have constituted God's incomplete victory over His rival gods, i.e., His limited sovereignty. In terms of Moses' warning, Israel's toleration of Canaanites would have meant that His people were playing the harlot, or would soon do so, with the gods of Canaan. Showing mercy to Canaanites would represent an ethical failure on Israel's part.

Genocide was required inside the boundaries of the Promised Land because the Israelites were spiritually weak. If the Canaanites remained in the land, the Israelites would be lured into the power re-

23. Gary North, *Sovereignty and Dominion: An Economic Commentary on Genesis* (Dallas, Georgia: Point Five Press, 2012), ch. 23.

ligions of Canaan, just as they had been lured into the worship of the golden calf. Inside the land's boundaries, the Canaanites had claimed sovereignty for their local gods. This claim had to be visibly refuted by Israel's annihilation of the Canaanites. For Israel to inherit the Promised Land, the Canaanites had to be disinherited. So did the gods of Canaan and the theology of Canaan. Dominion religion had to overcome power religion by military action this one time. The spiritual vulnerability of Israel had to be offset by a complete military victory.

But such was not to be. They were too weak spiritually to impose God's negative sanctions completely. They did not totally annihilate the Canaanites. As Moses prophesied, Israel then fell into sin and idolatry. The incomplete military victory of the Book of Joshua was followed by the repeated military defeats of the Book of Judges. The Israelites imposed incomplete military sanctions against Canaan; their enemies outside the land subsequently imposed far more complete military sanctions against the Israelites. From this bondage the judges repeatedly delivered them.

This requirement of annihilation did not apply to the economic assets of Canaan, which could be claimed by the Israelites as part of their inheritance: the spoils of war. Canaan's capital was the product of false local religions, but it was also part of the general dominion covenant: mankind's mandatory subduing of the earth (Gen. 1:26).[24] The more general dominion covenant took precedence over the special rebellion of Canaan. Only those highly specialized capital goods that were expressly designed for false worship came under the ban. With the exception of the precious metals of Jericho, which were set aside for the tabernacle (Josh. 7:24), even the gold and silver implements of Canaan's worship could be claimed by the conquering Israelites, though obviously not in the form of idols. Melted down—transformed from specific to general economic uses—the precious metals of Canaanite religion could become the lawful inheritance of the Israelites. Here was another reason to burn the groves of Canaan: Israelites could lawfully confiscate any gold and silver. The common grace of God, as seen in the lawful use of Canaan's precious metals, added an incentive for the special judgment of God against the special rebellion of Canaan.

24. Gary North, *Sovereignty and Dominion: An Economic Commentary on Genesis* (Dallas, Georgia: Point Five Press, 2012), ch. 3.

G. The Rejection of Christendom

"And ye shall overthrow their altars, and break their pillars, and burn their groves with fire; and ye shall hew down the graven images of their gods, and destroy the names of them out of that place. Ye shall not do so unto the LORD your God" (vv. 3–4). The principle here is obvious: mandated negative sanctions were imposed against Canaan's gods; none was imposed against God. To leave Canaan's idols intact was illegal; to impose negative sanctions on God's ritual implements was also illegal. There could be no judicial equality between God and Canaan's deities. There was no judicial neutrality possible. *To assert the equality of Canaan's gods with the God of the Bible was to assert a world without the jealous God of the Bible.*

1. Pluralism and Atheism

The modern West is theologically pluralistic. It has been marked by a functional atheism unknown in any previous social order. Most people say that they believe in a god of some kind. Only in the formerly Communist, former East Germany is admitted atheism as high as 60% of the population.[25] Operationally, however, the public institutions of the West are atheistic. The state is officially neutral religiously in the United States, and the state demands sacrifice of 40% or more of the citizenry's income. In Western European nations, what passes for tax-funded Christianity is theological liberalism, which is humanism in clerical robes. God's name has been publicly disenfranchised. The ideal of Christian civilization—Christendom—is ridiculed by Christians and humanists alike as theocratic oppression, "medievalism," and "triumphalism." Professed religious neutrality is the civil order of the day. Civil neutrality has been a myth highly useful to humanists in the early stages of their infiltration and transformation of Christian society.

The only alternative to Christian triumphalism is Christian defeatism, but "defeatism" is word avoided like the plague by the eschatological defeatists who publicly ridicule triumphalism. Conservative theological seminaries universally reject postmillennialism's triumphalism. In this, they are joined by the humanists, who govern the present "neutral" social order. It is as if the leaders of Mosaic Israel had joined political forces with the leaders of Canaanite society in

25. Reported by Andrew Greeley, "Religion Around the World," a joint report of the International Social Survey Program and the National Opinion Research Center. *National & International Religion Report* (May 31, 1993), p. 2.

order to create a common pluralist civil order. *This pluralist-syncretist impulse was exactly what Moses warned against*. It always means the defeat of God's people and their political subservience to His enemies.

There is no legitimate confessional neutrality. There is no permanent common confession in history between Christ and antichrist. "He that is not with me is against me; and he that gathereth not with me scattereth abroad" (Matt. 12:30). *There is no middle ground between Christian social defeatism and Christian social triumphalism*. There is therefore no permanent eschatological neutrality. Eschatology cannot legitimately be dismissed as an aspect of *adiaphora*: things indifferent to the faith. But this is not believed by the vast majority of those who call themselves evangelical Christians today. In the name of both amillennialism and premillennialism, the ancient ideal of Christendom is dismissed as impossible in history and therefore illegitimate as a goal.

2. The Kingdom of God, Sort Of

Pessimillennial pietists assert such incoherent judicial statements as this one: "But the Kingdom of God is a rule, not a realm." What does this mean? *It means that there is no biblically revealed civil law of God worth enforcing by the state solely on the basis of its status as biblically revealed*. The kingdom of God supposedly has neither a uniquely biblical civil law nor appropriate civil sanctions. This means that God is on permanent leave as king in history. A king with no realm is not a king; he is merely: (1) an abdicated monarch; (2) a publicly rejected monarch who used to have a realm; or (3) a would-be monarch without enough dedicated followers to enforce his claim. This means that "Thus saith the Lord!" is judicially irrelevant unless it is accompanied by "Thus saith religiously neutral common-ground logic." The god of such a confessionally neutral civil realm is self-proclaimed autonomous man. Anyone who asserts that "religious neutrality is a myth" without concluding that "political pluralism is therefore equally a myth" is suffering from self-delusion and confusion on an intellectually crippling scale.

Pessimillennialists assert a two-stage kingdom of God: today's exclusively internal, spiritual manifestation of God's kingdom—"for Christians only"—and an exclusively future comprehensive kingdom, when Jesus will come back to rule over His presently nonexistent realm. They write such things as this: "Jesus spoke about a Kingdom that had come and a Kingdom that was still to come—one Kingdom

in two stages. . . . The second stage, which will take place when Christ returns, will assert God's rule over all the universe; His kingdom will be visible without imperfection."[26] The authors are telling us in no uncertain terms that *there is no judicial, confessional, and civilizational continuity in history between the first stage and the second stage of God's kingdom*.

In the first stage, God supposedly has no realm. His people must therefore content themselves throughout history with life in the confessional equivalent of pre-Mosaic Canaan. They live today in what is fast becoming a new Sodom, yet they seek to persuade each other that all we need to do today is to restore the social order of Ur of the Chaldees. If this blindness continues, they will eventually find themselves, as Lot found himself, crying out to Sodomites: "Behold now, I have two daughters which have not known man; let me, I pray you, bring them out unto you, and do ye to them as is good in your eyes: only unto these men do nothing; for therefore came they under the shadow of my roof" (Gen. 19:8). Like Lot, they naively believe their homes somehow possess a widely acknowledged immunity from social evil in today's common-confession civil order. They think that a common-confession state will protect their rights as confessional Christians in the family and the church. But the humanist state is at war with the Christian family and the Christian church. The humanist state demands subservience by the family and the church. This was also true in the Roman Empire, which is why the war between Christianity and pagan Rome was absolute: a war to the death.

Christians today believe in the possibility of a permanent common civil confession between Christianity and humanism. In more insightful moments, modern evangelicalism prophesies a coming revival of Roman Empire-like tyranny. This was Francis Schaeffer's point in *How Should We Then Live?* (1976). In fact, he thought that the coming "imposed order" might be worse than Rome's. As an alternative, he called for a return to the Bible, not as a utilitarian solution to cultural problems, but as a moral requirement. "It means the acceptance of Christ as Savior and Lord, and it means living under God's revelation." But, as a consistent premillennialist, he had never accepted the theocratic ideal of Christendom for the era prior to the millennium.

26. Charles Colson and Ellen Santilli Vaughn, *Kingdoms in Conflict* (New York: William Morrow, 1987), pp. 84, 85. Colson went to jail in the late 1970s after several years of serving as President Richard Nixon's senior political hatchet man. He wrote a book about his conversion: *Born Again*. He founded Prison Fellowship.

The best that Christians can legitimately hope for, he said, is minority status. "*Such Christians do not need to be a majority in order for this influence on society to occur*."[27]

This made no sense, given his premillennial eschatology. His book and his film series of the same name surveyed the systematic growth of religious self-consciousness on the part of non-Christians in the West: their dedication to removing every trace of Christian influence. The film series began with a section on the persecution of Christians by the Roman Empire. There is no doubt as to what he privately thought must come: something far worse for the church, namely, the Great Tribulation. He was post-tribulational. But he was not willing to admit forthrightly to his film audience and to his readers that this was the underlying eschatological presupposition of his life's work. This was why his book was not a call to explicitly Christian social action, but rather *a survey of what the church has given up*; not an explicitly biblical blueprint for social and cultural reconstruction, but rather *a cataloguing of Christendom's surrender and hand-wringing disguised as an intellectual's cultural critique*; not a call for the progressive establishment of God's kingdom on earth in history, but rather *a program of religious common-ground anti-abortion politics*—yet somehow in the name of a non-utilitarian Christianity. He forthrightly denied the legitimacy of a confessional Christian nation.

> In the Old Testament there was a theocracy commanded by God. In the New Testament, with the church being made up of Jews and Gen tiles, and spreading all over the known world from India to Spain in one generation, the church was its own entity. There is no New Testament basis for a linking of church and state until Christ, the King returns. The whole "Constantine mentality" from the fourth century up to our day was a mistake. Constantine, as the Roman Emperor, in 313 ended the persecution of Christians. Unfortunately, the support he gave to the church led by 381 to the enforcing of Christianity, by Theodosius I, as the official state religion. Making Christianity the official state religion opened the way for confusion up till our own day. There have been times of very good government when this interrelationship of church and state has been present. But through the centuries it has caused great confusion between loyalty to the state and loyalty to Christ, between patriotism and being a Christian.
>
> We must not confuse the Kingdom of God with our country. To say it another way: "We should not wrap Christianity in our national flag."[28]

27. Francis A. Schaeffer, *How Should We Then Live?: The Rise and Decline of Western Thought and Culture* (Westchester, Illinois: Crossway, 1976), p. 252.

28. Francis A. Schaeffer, *A Christian Manifesto* (Westchester, Illinois: Crossway, 1981), p. 121.

What he really meant is that *we should not wrap our nation in Christianity's flag*. But every nation must be wrapped in some religious flag. There is no religious or ethical neutrality, after all. So, we must ask ourselves, what flag did Francis Schaeffer prefer that we wrap our nation in? He never said, but since there is no neutrality, there will always be a flag (i.e., a public symbol of political sovereignty). It flies high today in the name of neutrality, flapping over the public school system. It flies high every time a nation defaults from an explicit religion. That flag is the flag of secular humanism.

Jesus was described by Colson as a "King Without a Country."[29] Yet this is hardly what Jesus announced: "Therefore say I unto you, The kingdom of God shall be taken from you, and given to a nation bringing forth the fruits thereof" (Matt. 21:43). Jesus has a country: His church. This universal country is supposed to permeate every country on earth, bringing them all under covenantal subordination to Jesus Christ: "Go ye therefore, and teach all nations, baptizing them in the name of the Father, and of the Son, and of the Holy Ghost" (Matt. 28:19).[30] One piece of evidence of such national subordination is the Trinitarian confession of the nation's civil covenant. Because Christians have ceased to believe this, they first allowed and then promoted the substitution of other oaths and other covenants, but always in the name of a purer, higher, and more mature Christianity.

3. Kingdom Oath

The ideal of Christendom is out of favor today. Christendom is the cultural manifestation of the Trinitarian kingdom of God, a social order founded on a confession of faith in the Trinitarian God of the Bible. The rejection of the legitimacy of the visible kingdom of God—and, by implication, of the Great Commission which underlies it—is universal, even inside the churches. The universal commitment today is to political pluralism and the ideal of a religiously oath-less civil order.[31] But there are always oaths; the question is: To which god? The God of the Bible or some rival god?

The most popular rival god today is the state. Men must swear allegiance to the state and its constitution, not to God and His Bible, when they seek or confirm their citizenship in today's "neutral" soci-

29. Colson, *Kingdoms in Conflict*, ch. 6.

30. Kenneth L. Gentry, *The Greatness of the Great Commission: The Christian Enterprise in a Fallen World* (Tyler, Texas: Institute for Christian Economics, 1990).

31. See Appendix H: "Week Reed: The Politics of Compromise."

eties. Christian evangelicals accept this arrangement as both normal and normative. Yet there has never been a single treatise written by any Bible-affirming Protestant Christian apologist for pluralism that shows how the Bible's required sanctions against false worship are consistent with political pluralism, i.e., a common civil oath. Christians speak today in defense of pluralism as if such a general treatise had been written three centuries ago, with dozens of monographs and textbooks following it through the centuries. They act as though the civil religion of political pluralism is consistent with—an extension of—the Bible. It never occurs to them that political pluralism is a form of polytheism: equal time for all religions in civil affairs, equal time for all law-orders, equal time for covenant-breakers and the gods they represent. The god of the state then is elevated to the throne of civil power. This god banishes all gods whose spokesmen do not acknowledge its sovereignty in history. Christian political pluralists' insistence on "equal time for Jesus" eventually is replaced by humanism's "no time for Jesus." The Christians' anguished cries of "Unfair!" accomplish nothing significant. Having surrendered political sovereignty to a supposedly neutral civil order, Christians find that this order is not neutral. Even so, most Christians still acquiesce in principle to the false claims of this civil order.

There is no neutrality. There can be no mutually acceptable covenant between Christ and Satan. Each insists on sovereignty. But Christ's spokesmen have, for well over three centuries, insisted that there is such a covenant in the civil realm. The result has been exactly what Moses said it would be: *the cultural displacement of biblical religion by its enemies*. First, the Trinitarians surrendered the civil confession to the unitarians. Then both groups surrendered the civil confession to the secularists. Christians now find themselves in the absurd position calling for a restoration of the long-defunct common-ground unitarian confession in the name of traditional civil liberty. The humanists laugh in derision, having long since absorbed the unitarians into their ranks. The supposedly naked public square is in fact fully clothed in the clerical robes of humanism.

Conclusion

The annihilation of Canaan was to be a one-time event. Other rules of war applied to nations outside the boundaries of Canaan (Deut. 20).[32]

32. Chapters 48, 49.

God did not require that the names of gods outside the land not be mentioned. The focus of God's concern was Canaan and its gods. After the exile, the inheritance pattern of the jubilee year was to be extended to gentiles living in the land at the time of Israel's return (Ezek. 47:21–23).[33] The law was altered because the conditions had altered. Never again would Israel be tempted to worship the gods of Canaan, for the authority represented by those gods had been totally vanquished by the invading empires. Never again did Israel worship the gods of Canaan.

The New Testament does not authorize either genocide or a prohibition against any mention of the names of other gods. The civil issue in the New Testament is political sanctions, not military sanctions. The legitimate possession of the civil authority to declare and enforce God's Bible-revealed civil law is both necessary and sufficient for covenant-keepers: *sanctions by Trinitarian oath*. The names of other gods may be spoken. The relevant covenantal question is: Whose name do citizens invoke in the civil oath? In other words, *by whose name are civil sanctions invoked*? Here, no neutrality is possible. The quest for such neutrality is the quest for political polytheism.

33. North, *Restoration and Dominion*, ch. 22.

31

COMMUNAL MEALS AND NATIONAL INCORPORATION

> *But unto the place which the* Lord *your God shall choose out of all your tribes to put his name there, even unto his habitation shall ye seek, and thither thou shalt come: And thither ye shall bring your burnt offerings, and your sacrifices, and your tithes, and heave offerings of your hand, and your vows, and your freewill offerings, and the first lings of your herds and of your flocks: And there ye shall eat before the* Lord *your God, and ye shall rejoice in all that ye put your hand unto, ye and your households, wherein the* Lord *thy God hath blessed thee. Ye shall not do after all the things that we do here this day, every man whatsoever is right in his own eyes. But when ye go over Jordan, and dwell in the land which the* Lord *your God giveth you to inherit, and when he giveth you rest from all your enemies round about, so that ye dwell in safety; . . .*
>
> DEUTERONOMY 12:5–10

This passage has to do with boundaries: point three of the biblical covenant.[1] "But unto the place which the Lord your God shall choose out of all your tribes to put his name there, even unto his habitation shall ye seek, and thither thou shalt come." God's name was to be placed publicly on Israelite society. He had marked out the land with His name. The basis of their maintenance of this land grant was obedience. "Ye shall not do after all the things that we do here this day, every man whatsoever is right in his own eyes."

Here is the theocentric focus of this law: *God as the owner of Israel*. God was to become central to the life of the nation. This shared confession would unify the nation. The unity of Israel was grounded in

1. Ray R. Sutton, *That You May Prosper: Dominion By Covenant*, 2nd ed. (Tyler, Texas: Institute for Christian Economics, [1987] 1992), ch. 3. Gary North, *Unconditional Surrender: God's Program for Victory*, 5th ed. (Powder Springs, Georgia: American Vision, [1980] 2010), ch. 3.

the unity of God (Deut. 6:4). At the same time, the plurality of Israel was grounded in the plural nature of God (Gen. 1:26; 11:7). This plurality was to serve as the basis of Israel's system of tribal localism and political decentralization. Israel's primary unity was confessional, ecclesiastical, and priestly. Israel, like God, was to be both one and many.

A. An Anti-Polytheistic Priestly Law

Canaan was a polytheistic culture. Israel was monotheistic, though not unitarian. God is plural in His unity. "Let us make man in our image" (Gen. 1:26a). "Go to, let us go down, and there confound their language" (Gen. 11:7a). This language is dismissed by unitarians as a so-called "plural of majesty," meaning unitarian majesty. On the contrary, such language announced early and emphatically that God is plural, which is why He is majestic. The persons of the Trinity operate as the ultimate team.

The equal ultimacy of unity and plurality in the Godhead is the ontological foundation of mankind's various covenantal incorporations: the coming together of many in a display of unity. Canaanitic culture was pluralistic because it was polytheistic. There was no single place of sacrifice and ritual celebration in Canaan. The cities worshipped different gods. Canaan was not incorporated as a unitary social order. City by city, society by society, Israel captured the land. Altar by altar, the gods of Canaan fell. Canaanite society possessed no sacrificial unity. Divided, it fell.

Moses warned Israel that a new order would soon be incorporated in Canaan: unified nation, unified confession, unified celebrations. Israelites would henceforth be required to journey to a central location to eat their sacrificial meals. These common meals would mark the end of Israel's pilgrimage in the wilderness. The three feasts would be celebrated familistically and nationally, not tribally. *The dozen land-holding tribes had no covenantal function during the national feasts*. The Levites would officiate at the celebrations; the other tribes would have no role. The tribes could not become what the cities of Canaan were: separate centers of formal worship, each with its own god. This pointed clearly to *the centrality of worship* rather than the centrality of politics as the basis of national incorporation.

The great sin of Jeroboam was not his political secession from national Israel, which God imposed as a punishment on King Rehoboam for his ruthless increase in taxation (I Kings 12:14–15). Je-

roboam's great sin was his creation of a new priesthood and new places of worship, which constituted idolatry (vv. 15–33). His motive was political. He interpreted Israel's unity in terms of politics. "If this people go up to do sacrifice in the house of the LORD at Jerusalem, then shall the heart of this people turn again unto their lord, even unto Rehoboam king of Judah, and they shall kill me, and go again to Rehoboam king of Judah" (v. 27). This was a politician's assessment of covenantal unity. He reimposed the multiple worship centers that had prevailed in pre-Mosaic Canaan: "Whereupon the king took counsel, and made two calves of gold, and said unto them, It is too much for you to go up to Jerusalem: behold thy gods, O Israel, which brought thee up out of the land of Egypt. And he set the one in Bethel, and the other put he in Dan" (vv. 28–29). It was this which God had expressly prohibited: "Take heed to thyself that thou offer not thy burnt offerings in every place that thou seest: But in the place which the LORD shall choose in one of thy tribes, there thou shalt offer thy burnt offerings, and there thou shalt do all that I command thee" (Deut. 12:13–14). *Jeroboam abolished the Hebrews' centralized worship because he regarded politics as above worship*, whether in Jerusalem or in his newly established Northern Kingdom. His idolatry was political. This is covenant-breaking man's perpetual temptation: *to elevate politics over worship*, man's kingdom over God's kingdom.

God withered Jeroboam's hand when the new king attempted to bring sanctions against a prophet who condemned the new worship (I Kings 13:4). The king then begged the prophet to restore his hand, which he did. Then the king invited him to share a meal with him. "And the man of God said unto the king, If thou wilt give me half thine house, I will not go in with thee, neither will I eat bread nor drink water in this place: For so was it charged me by the word of the LORD, saying, Eat no bread, nor drink water, nor turn again by the same way that thou camest" (vv. 8–9). *Jeroboam understood the covenantal function of a shared meal.* So did the prophet, who refused to eat what was obviously a political meal in the presence of the king. He refused to sanctify Jeroboam's political idolatry.[2]

2. In the United States, politicians occasionally meet with religious leaders of all faiths at "prayer breakfasts." These events are held mainly for the benefit of the politicians, who thereby deflect public criticism by those religious leaders in attendance and also by others who naively interpret these events as in some way holy. These are common grace events that solidify support for political polytheism.

B. Lawful Administrators

There would be blessings in the Promised Land, Moses said. The main blessing would be land; the secondary blessing would be peace; the tertiary blessing would be wealth. These positive sanctions were to be accompanied by sacrifice at a central place of worship. "But when ye go over Jordan, and dwell in the land which the LORD your God giveth you to inherit, and when he giveth you rest from all your enemies round about, so that ye dwell in safety; Then there shall be a place which the LORD your God shall choose to cause his name to dwell there; thither shall ye bring all that I command you; your burnt offerings, and your sacrifices, your tithes, and the heave offering of your hand, and all your choice vows which ye vow unto the LORD" (Deut. 12:10–11).

The required national sacrifice included a shared meal or series of shared meals. "And ye shall rejoice before the LORD your God, ye, and your sons, and your daughters, and your menservants, and your maidservants, and the Levite that is within your gates; forasmuch as he hath no part nor inheritance with you" (v. 12). The focus of the national celebration was familial, but the Levite, as a member of the ecclesiastical tribe, was to be invited into these family festivals. His tribe was in charge of the covenantal sacrifices; he was therefore entitled to share in the familial celebration.

We see here three blessings: land, peace, and bread.[3] The land was administered by families; peace was administered by civil government; bread was administered ecclesiastically. I use the word *administered* here covenantally: an oath-bound minister of God who allocates the assets under his lawful jurisdiction. He acts as God's steward or trustee. What is significant here is this: *bread is covenantally ecclesiastical, not familial*. Families owned the land that produced the grain that made bread-making possible, but the priestly tribe had primary claim on the bread. They were lawfully entitled to a tenth of the land's net output (Num. 18:21).[4] This is because they administered

3. The phrase, "peace, land, bread," is attributed by historians to Lenin in the days immediately preceding the Bolshevik revolution in Russia. I have been unable to find any document written by Lenin that indicates that he ever said it. The story was given a worldwide audience by the literary critic, Edmund Wilson, in his summary, not based on a primary source by Lenin, of Lenin's supposed speech when he arrived at the Finland station in 1917. Wilson, *To the Finland Station* (Garden City, New York: Doubleday Anchor, [1940] 1953), p. 470.

4. Gary North, *Sanctions and Dominion: An Economic Commentary on Numbers*, 2nd ed. (Dallas, Georgia: Point Five Press, [1997] 2012), ch. 10.

the sacrifices. So, the Levites were the administrators—the representative agents—over the bread of the nation.[5] Their God-given legal claim on a token payment marked them as the source of bread in the land. They represented God when they collected the families' tithes. They acted in God's name and on His behalf. "And all the tithe of the land, whether of the seed of the land, or of the fruit of the tree, is the LORD's: it is holy unto the LORD" (Lev. 27:30). The land was administered by families, but the church had the fundamental legal claim over the output of the land: bread. The Levites therefore had to be invited in by families to share in the familial meals during the communal sacrifices. The Levites had first claim on these meals.

It is imperative that we understand that the Levites' legal claim to a tenth of every family's bread was not based on the social services which they provided.[6] It was based on their lawful administration of the sacrifices. As evidence, consider the fact that they did not have to be invited in to share a family meal back home. Their lawful claim to participation in the families' meals existed only during the national festivals, which centered around the sacrificial and sacramental flame of the altar.

C. Local and National Incorporation

The Levites were spread across the nation. They lived in cities inside every tribe's jurisdiction. Israel's families were told to share their meals with "the Levite that is within your gates" (v. 12). This indicates that a local Levite journeyed to the central location alongside residents of his region. The local Levite joined with local families to share meals in a distant city. The tribal bond no longer functioned in the place of sacrifice. The national geographical bond did.

The tribes maintained a separate legal existence. They had influence over families through the laws of landed inheritance (Lev. 25).

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5. Joseph served as Egypt's priest when he allocated grain and bread in Egypt. He was Egypt's administrator over bread. Joseph in effect had replaced Egypt's chief baker, who had been executed two years earlier, as Joseph had prophesied in prison (Gen. 40:22).

6. On this point, Rushdoony was dangerously wrong. He saw their claim as based on their role as providers of social services. He insisted that families administered the tithe by allocating it to the representatives they deemed God's best servants. He wrote in 1979, "What we must do is, *first*, to tithe, and, *second*, to allocate our tithe to godly agencies. Godly agencies means far more than the church." R. J. Rushdoony and Edward A. Powell, *Tithing and Dominion* (Vallecito, California: Ross House, 1979), p. 9. For a detailed critique of Rushdoony's ecclesiology, which centers on his view of the allocation of the tithe, see Gary North, *Tithing and the Church* (Tyler, Texas: Institute for Christian Economics, 1994), Part 2.

They had influence over geography because of the same laws of inheritance. They defended their own land. This meant that civil jurisdiction—bearing the sword—was in the hands of tribal captains. In this sense, Israelite tribal law mirrored the Canaanite system. What distinguished Israel from Canaan institutionally was its common theological confession, including the mark of circumcision, and common national celebrations. First, confession: "Hear, O Israel: The LORD our God is one LORD" (Deut. 6:4). Second, there were common national celebrations, which are the focus of this passage. Common theological confession bound Israel to one God by oath. Common celebrations bound Israel to one God by eating. The celebrations imposed an economic loss: costs of making the journey and any offerings. They also involved economic gains to those who were normally not included in family celebrations: the local Levites.

The overwhelming majority of the costs associated with national incorporation were ecclesiastically imposed. The costs of the journey, the sacrificial offerings, and the shared meals were all imposed by laws regulating ecclesiastical sacrifices. Families were bound to the nation by means of theological confession and common sacrifice, which involved a journey to a common location. At the center of Israel covenantally were an implied ecclesiastical oath (circumcision), an altar, and the Ark of the Covenant, which contained the tables of the law (Deut. 31:26). None of these centralizing features of Israelite society was uniquely tribal.

The incorporation of the one and the many in Israel was both confessional and ecclesiastical. Mosaic civil law was enforced primarily by tribal units of government, but neither the civil law nor its required negative sanctions had its origin in tribal civil governments. Because civil law enforcement was administered primarily by tribal governments in Mosaic Israel, this means that *the unifying forces of Mosaic Israel were not primarily civil*. The tribes were subordinate to the nation, but the nation was constituted by *theological confession* and maintained by *ecclesiastical sacrifice*. The authority of these two foundations of incorporation was affirmed economically: losses imposed by the costs of centralized worship. The tithe was paid locally to local agents of the cross-boundary national tribe: Levi. The mandated national celebrations required the participation of local Levites as guests at the family meals.

This law applied to all other holy offerings and sacrifices, which could not be lawfully offered in the local community (Deut. 12:17–18).

The Levites would always possess legal access to the family's communion meals in the city of sacrifice. "Take heed to thyself that thou forsake not the Levite as long as thou livest upon the earth" (v. 19). To refuse the Levite was to invite excommunication, and with it, the loss of citizenship.

D. Intermediary Authorities

One of the fundamental themes in Western political theory and also social theory has been the debate over the legitimacy of intermediary institutions. Conservative political theory ever since Edmund Burke's *Reflections on the Revolution in France* (1790) has invoked local units of civil government as possessing lawful authority. At least in theory, local units of civil government are supposed to be the most important units except during a war. Radical political theory has affirmed the opposite ever since Jean Jacques Rousseau's *Social Contract* (1762). The bond that unites men is said to be their political participation in a unitary national state, which incorporates the General Will of the people. In between the national state and the individual there is no legitimate realm of independent civil authority.[7]

This debate over political theory has been parallelled in social theory. A consistent follower of Rousseau denies the legitimacy of any claim to independent authority made by non-civil, intermediary institutions generally, not just local or regional civil governments. In contrast, a consistent follower of Burke affirms superior authority of local non-civil institutions—family, church, voluntary association—over the claims of the state, especially the national state, outside of narrowly circumscribed areas of civil authority. Independent, decentralized social institutions are viewed as a necessary restraint on illegitimate state power.[8]

What no longer appears in Western thought is any suggestion that intermediary authorities possess superior authority to the individual. We can find intellectual defenses of one institution as possessing superior authority to another institution, but not superior authority to the individual, unless the institution is the state. The individual is said to possess ultimate authority in relation to all intermediary institutions, which exist to serve individuals, not the other way around.

7. Robert A. Nisbet, "Rousseau and the Political Community," in Nisbet, *Tradition and Revolt: Historical and Sociological Essays* (New York: Random House, 1968), ch. 1.

8. Robert A. Nisbet, *Conservatism: Dream and Reality* (New Brunswick, New Jersey: Transaction Publishers, [1986] 2002), pp. 50–66.

This outlook was not true of medieval social theory, and surely not of ancient political theory, which asserted the omnipotence of the state, which men (not women) participated in through the family or other collective unit.[9] Antiquity had no concept of the rights of the individual.[10] For the Greeks, the *polis* or city-state was supreme.[11]

It took over two centuries for the debate between Burke and Rousseau to be concluded in the West. With the unexpected, overnight, non-violent collapse of the Soviet Union in December of 1991, the ideological victors were the secular conservatives and secular nineteenth-century liberals, whose economic theories of decentralized private ownership have paralleled Burke's defense of political and social decentralization.[12] The manifest failure of the Soviet Union's central economic planning at long last persuaded the West's intellectuals of the worthlessness of Communism, both as an economic system and a political system. Nevertheless, seven decades of Communist terrorism had not persuaded most of them of the utter illegitimacy of Communism as an ideology. As long as Western intellectuals believed that Communism was making sufficient economic progress to maintain its machinery of terror, most of them refused to voice more than occasional token objections to Soviet Communism's barbarism.[13] Many of them respected the power that such barbarism conferred on Communism's rulers. Western intellectuals believe in state power as the primary means of transforming society. This is why they abandoned respect for Communism without a blink after 1991. Stripped of their power, the Communists were stripped of their legitimacy in the humanistic West. The Western intellectuals' much-beloved Premier Gorbachev disappeared overnight, only to surface two years later as the head of a heavily endowed non-profit foundation

9. Fustel de Coulanges, *The Ancient City: A Study on the Religion, Laws, and Institutions of Greece and Rome* (Garden City, New York: Doubleday Anchor, [1864] 1955), III:X-VII, pp. 219–23.

10. Jacob Burkhardt, *The Greeks and Greek Civilization*, ed. Oswyn Murray (New York: St. Martins, [1872] 1999), p. 53.

11. *Ibid.*, pp. 56–58.

12. Adam Smith and Edmund Burke respected each other's opinions. Burke had read and adopted Smith's economics, while Smith is said to have commented: "Burke is the only man I ever knew who thinks on economic subjects exactly as I do without any previous communication having passed between us." Cited in Isaac Kramnick (ed.), *Edmund Burke* (Englewood-Cliffs, New Jersey: Prentice-Hall, 1974), p. 100. The same quotation appears in Russell Kirk, *The Conservative Mind: from Burke to Santayana*, rev. ed. (Chicago: Regnery, 1954), p. 19.

13. Jean-Francois Revel, *The Flight from Truth: The Reign of Deceit in the Age of Information* (New York: Random House, [1988] 1991).

promoting world government for the sake of ecology. This Red premier had turned into just another Green.[14] He had become a Western intellectual, devoid of personal power.[15] So, nobody in authority has paid much attention to him. Conservatives dismissed him as a red turned green . . . for the sake of green (dollars).

There was a reason for the intellectuals' overnight dismissal of Communism. For two centuries, all but a few of them have worshipped at the altar of pragmatic economic growth. Communism was "the god that failed" for only a handful of Western intellectuals.[16] It was never a god for most of them. Economic pragmatism remains their god. This god is now seen as having brought negative corporate sanctions against the god of Communism. Western intellectuals today blandly dismiss Communism as merely a failed scientific experiment that happened to cost 100 million lives[17]—a noble experiment, a few of them might say in private,[18] but now passé. Their pragmatic god is still on his throne in their hearts, dispensing blessings and cursings.

The Mosaic law had elements of both Burke and Rousseau. There is no question that intermediary institutions played a major role in Mosaic civil law, for the tribal civil governments were the primary agencies of law enforcement. This was Burkean. So was the Mosaic

14. He was the political leader who had long ignored warnings from Russian engineers regarding the unsafe status of Chernobyl-type nuclear reactors, and who was in charge when the 1986 Chernobyl disaster took place. This has all been politely ignored by the Western intellectuals.

15. When he ran for president in Russia in 1996, he received so few votes that his candidacy was not statistically visible. Boris Yeltsin, his old antagonist, was elected over a Communist who no longer called himself a Communist. The ex-Communists had no further use for a loser like Gorbachev in 1996, just five years after his removal from office.

16. The phrase comes from a 1949 collection of essays by ex-Communist liberals and socialists: *The God That Failed*, edited by Richard H. Crossman. This was the only variety of anti-Communism that was taught on college campuses until the 1980s.

17. Stéphane Courtois, et al., *The Black Book of Communism: Crimes, Terror, Repression* (Cambridge, Massachusetts: Harvard University Press, 1999), p. 4. This assumes that the total was 20 million deaths in the Soviet Union, which is a low estimate. It may have been 60 million.

18. Felix Somary recorded in his autobiography a discussion he had with the economist Joseph Schumpeter and the sociologist Max Weber in 1918. Schumpeter expressed happiness regarding the Russian Revolution. The USSR would be a test case for socialism. Weber warned that this would cause untold misery. Schumpeter replied: "That may well be, but it would be a good laboratory." Weber replied: "A laboratory heaped with human corpses!" Schumpeter retorted: "Every anatomy classroom is the same thing." Felix Somary, *The Raven of Zurich* (New York: St. Martin's, 1986), p. 121. I am indebted to Mark Skousen for this reference. The USSR became what Schumpeter predicted, an anatomy classroom filled with corpses, but with this variation: unlike medical classrooms, the USSR killed people to gain its huge supply of corpses. So did Red China. So did Marxist Cambodia.

law's devaluation of civil government when compared to family and ecclesiastical governments. The Mosaic law's system of national sacrifices and festivals was a unique mixture of familism and centralized ecclesiastical representation. Intermediary civil institutions (tribes) had no covenantal role to play in the Mosaic law's reconciliation of the one and the many through national incorporation. People participated at the national festivals either as family members or as priests. The priests had a lawful claim on the families' culinary rites of celebration: meals. Indeed, the common meal was the rite of reconciliation: between man and God, between family and priesthood. The state had no covenantal role to play here; neither did the tribe.

Conclusion

The reconciliation of the one and the many is the Trinity. This reconciliation was reflected in the communal rites of Mosaic Israel. The meals were mandated national celebrations that involved economic sacrifice. Families journeyed to a common location marked off from the rest of Israel by the presence of the altar and the Ark. Participation in the rites of celebration was secured by theological confession, which in turn was marked by circumcision. *A common theological confession* unified the nation under the Mosaic law's covenantal sanctions: "Hear, O Israel: The LORD our God is one LORD" (Deut. 6:4).[19] *Common meals in a common place* also unified the nation under the Mosaic law's covenantal sanctions.

The nation secured its incorporation through confession and communal eating. The church does the same. The centrality of confession and communion in Mosaic Israel should be obvious. *It was not only a civil oath that bound the nation (Ex. 19), but also an ecclesiastical oath*. The Mosaic law mandated national festivals after Israel inherited the land of Canaan. The inheritance was secured by means of negative military sanctions, but it was to be maintained by non-military sanctions. It was secured by civil action, but was to be maintained by ecclesiastical action. Israel fought in tribal units, but the nation celebrated nationally as family units that were made holy by two things: a journey to the place of the altar and the presence of Levites at family meals. The national celebration imposed economic losses on families.

Enlightenment political theory has substituted civil confession for theological confession as the basis of establishing national incorpora-

19. Chapter 15.

tion. It has substituted voting for eating as the basis of maintaining national incorporation. From Machiavelli to Hobbes, from Locke to Madison, the message was the same: national incorporation is by civil oath alone.

What is astounding is that this Enlightenment confession is today regarded by Protestants and most Catholics as a statement of Christian principles. The enemies of Christianity have triumphed over Christianity in the civil realm because they have persuaded Christians of the illegitimacy of Trinitarian confession as the basis of national incorporation. The result has been the substitution of massive taxation for the tithe, bread and circuses for bread and wine. This is empire's familiar pattern of development, from the Roman Empire to all the other evil empires that seek to revive it. They will all perish, to be replaced in history by a common kingdom that is established by Trinitarian confession and maintained by communion meals eaten in the presence of ecclesiastical authorities. This thought is distressing news for Enlightenment political theorists and their spokesmen inside the churches and Christian college classrooms.

32

THE MURDEROUS GODS OF CANAAN

> *Observe and hear all these words which I command thee, that it may go well with thee, and with thy children after thee for ever, when thou doest that which is good and right in the sight of the* LORD *thy God. When the* LORD *thy God shall cut off the nations from before thee, whither thou goest to possess them, and thou succeedest them, and dwellest in their land; Take heed to thyself that thou be not snared by following them, after that they be destroyed from before thee; and that thou enquire not after their gods, saying, How did these nations serve their gods? even so will I do likewise. Thou shalt not do so unto the* LORD *thy God: for every abomination to the* LORD*, which he hateth, have they done unto their gods; for even their sons and their daughters they have burnt in the fire to their gods. What thing soever I command you, observe to do it: thou shalt not add thereto, nor diminish from it*
>
> DEUTERONOMY 12:28–31

The theocentric focus of this law was obedience to God's Bible-revealed law. "Observe and hear all these words which I command thee." God offered a practical reason for this obedience: "that it may go well with thee, and with thy children after thee for ever, when thou doest that which is good and right in the sight of the LORD thy God." Law is linked to sanctions.

Sanctions, in turn, are linked to inheritance. There is a war for the inheritance in history. Disinherited sons claim the inheritance. This war is covenantal. It involves all five points of the covenant.[1] It is a war over sovereignty, authority, law, sanctions, and inheritance. As such, it is at bottom ethical. The gods that men worship are reflected in the laws that men obey. "What thing soever I command you, ob-

1. Ray R. Sutton, *That You May Prosper: Dominion By Covenant*, 2nd ed. (Tyler, Texas: Institute for Christian Economics, [1987] 1992). Gary North, *Unconditional Surrender: God's Program for Victory*, 5th ed. (Powder Springs, Georgia: American Vision, 2010).

serve to do it: thou shalt not add thereto, nor diminish from it" (Deut. 12:32). Those who affirm and obey God's Bible-revealed law are identified here as the true heirs. Those who deny the authority of God's Bible-revealed law and disobey it are the false heirs.

A. Sacrificing the Future

This passage begins with a prophecy: "When the LORD thy God shall cut off the nations from before thee, whither thou goest to possess them, and thou succeedest them, and dwellest in their land" (v. 29). Title to their land will surely be transferred to Israel. The question facing Israel was the question of how to maintain the kingdom grant. I wrote in *Boundaries and Dominion*:

> Leviticus presents the rules governing this kingdom grant from God. This land grant preceded the giving of these rules. *Grace precedes law in God's dealings with His subordinates*. We are in debt to God even before He speaks to us. The land grant was based on the original promise given to Abraham. That promise came prior to the giving of the Mosaic law.[2] This is why James Jordan said that the laws of Leviticus are more than legislation; the focus of the laws is not simply obedience to God, but rather on *maintaining the grant*.[3] The basis of maintaining the grant was ethics, not the sacrifices. Man cannot maintain the kingdom in sin.[4] The fundamental issue was sin, not sacrifice; ethics, not ritual.[5]

God warned them against dallying with the rituals of Canaan's gods. He warned them, "enquire not after their gods, saying, How did these nations serve their gods? even so will I do likewise" (v. 30). But the primary issue was not liturgy; it was ethics. It was the prohibition against murder. "Thou shalt not do so unto the LORD thy God: for every abomination to the LORD, which he hateth, have they done unto their gods; for even their sons and their daughters they have burnt in the fire to their gods" (v. 31). The great evil of Canaan's rituals was the willful destruction of their own children in formal sacrifice: ethics (point three) encapsulated in ritual (point four).

Human sacrifice is the greatest ritual evil in history, and it was widespread prior to the spread of Christianity. Classical Greece and

2. James B. Jordan, *Covenant Sequence in Leviticus and Deuteronomy* (Tyler, Texas: Institute for Christian Economics, 1989), p. 8.

3. *Ibid*., p. 9.

4. *Ibid*., p. 11.

5. Gary North, *Boundaries and Dominion: An Economic Commentary on Leviticus*, 2nd ed. (Dallas, Georgia: Point Five Press, [1994] 2012), Introduction, section E.

Rome both practiced human sacrifice,[6] although history textbooks do not mention this, and even specialized historical monographs ignore it or mention it only in passing. This historical blackout is an aspect of the successful re-writing of history by humanists who rely, generation after generation, on their peers' glowing accounts of a supposedly secular classical world, an academically satisfying world in which formal religion was socially peripheral and mostly for political show. The fact that a vestal virgin was buried alive as a sanction against either her unchastity or allowing the ritual fire to go out[7] is an historiographical inconvenience, and so it is rarely mentioned. Vesta was the sacred fire of Rome, a goddess. She was the incarnation of moral order, both in Greece and Rome.[8] Vesta's ritual requirements had the sanction of execution attached to the virgin priestesses. *Where we find the imposition of the death penalty, we do not find a socially peripheral issue*. Centuries later, the sacrificial bloodshed of Mexico's Aztecs in the late fifteenth century reached the limits of this ritual abomination.[9] The remarkable speed of that perverse civilization's disinheritance by the Spanish and their Indian allies, from 1519 to 1521, should give pause to the academic world, which does not take seriously covenantal cause and effect. (Modern legalized abortion more than matches the efficiency of the Aztecs' slaughter, but not as a ritual practice.)

A visible manifestation of the essence of covenant-breaking man's religion is his willful cutting off of his own legacy. This is a variation of the crime of attempted suicide—the suicide of the entire race. "But he that sinneth against me wrongeth his own soul: all they that hate me love death" (Prov. 8:36). In the name of confiscating the lawful inheritance from covenant-keepers, the covenant-breaker destroys it. He is driven by envy. In the name of securing an inheritance for his heirs, he kills his heirs. Here is a biblical example:

> And Joshua adjured them at that time, saying, Cursed be the man before the LORD, that riseth up and buildeth this city Jericho: he shall lay the foundation thereof in his firstborn, and in his youngest son shall he set up the gates of it (Josh. 6:26).

6. Lord Acton, "Human Sacrifice" (1863), in *Essays in Religion, Politics, and Morality*, 3 vols. (Indianapolis, Indiana: Liberty*Classics*, 1988), III, ch. 19.

7. Fustel de Coulanges, *The Ancient City: A Study on the Religion, Laws, and Institutions of Greece and Rome* (Garden City, New York: Doubleday Anchor, [1864] 1955), III:VI, p. 147.

8. *Ibid*., I:III, pp. 30–32.

9. Serge Gruzinski, *The Aztecs: Rise and Fall of an Empire* (New York: Abrams, [1987] 1992), pp. 49–56.

> In his days did Hiel the Bethelite build Jericho: he laid the foundation thereof in Abiram his firstborn, and set up the gates thereof in his youngest son Segub, according to the word of the LORD, which he spake by Joshua the son of Nun (I Kings 16:34).

B. Comparative Religion

God forbade the Israelites to name the names of the gods of Canaan. "And in all things that I have said unto you be circumspect: and make no mention of the name of other gods, neither let it be heard out of thy mouth" (Ex. 23:13). Was this a ban against historical scholarship? Was this prohibition to be taken literally?

The language here is covenantal. Naming the name of a god was in this context an act of invocation. It was an act of worship. Calling upon a god is an act of religious subordination. To invoke the name of a god is to acknowledge formally that he brings sanctions in history. The context of Deuteronomy 12:30 was historical study for the sake of covenantal subordination: "...enquire not after their gods, saying, How did these nations serve their gods? even so will I do likewise." The prohibition of false worship took the form of a universal prohibition against mentioning the names of the gods of Canaan. To ignore the area of comparative religion is to ignore the possibility that *false worship can be introduced in the name of progressive reform as well as the restoration of ancient practices*. To be able to recognize a proposed progressive innovation as the restoration of an ancient abomination is an advantage. Without a knowledge of the past, it becomes more difficult for guardians of orthodoxy to defend its boundaries.

There is no doubt that the rulers of Israel spoke the names of foreign gods. "Woe to thee, Moab! thou art undone, O people of Chemosh: he hath given his sons that escaped, and his daughters, into captivity unto Sihon king of the Amorites" (Num. 21:29). "Wilt not thou possess that which Chemosh thy god giveth thee to possess? So whomsoever the LORD our God shall drive out from before us, them will we possess" (Jud. 11:24). But Chemosh was not a god of Canaan. Its geographical area of sovereignty was outside the boundaries of Israel. Foreign gods did not pose the same degree of covenantal threat to Israel that the gods of Canaan did, for they were not perceived as exercising sovereignty inside the boundaries of the Promised Land. To invoke the names of foreign gods was a violation of the first commandment (Ex. 20:3), but for false worship to become socially significant, there had to be some basis for people to believe that cause and

effect in history were influenced by the god invoked. This god had to be able to impose sanctions on behalf of those who invoked his name. Because the ancient world outside of pre-exilic Israel did not invoke the name of any finally sovereign god, the social threat to Israel came from the pre-conquest local gods of Canaan.

What about local gods? Could Israelites lawfully speak their names? I believe they could, although I am not sure that this was the case. I argue that invocation is not the same as classification. The prophet Jeremiah spoke Baal's name as part of his covenant lawsuit (Jer. 7:9; 11:13). But Baal was a god of Moab (Num. 22:41). It may be that the word, meaning "master" or "owner," was widely applied in Israel to rival gods. But as for the specific names of the gods of pre-conquest Canaan, the Bible is silent.

After the exile, there seems to have been no application of this law. The sovereignty of the pre-conquest gods of Canaan was finally destroyed by the Assyrians and Babylonians. The new world of empires was openly polytheistic. Many gods resided in the pantheon of each empire. The cultural threat of exclusively local gods ended forever in Israel. The threat of polytheism and syncretism still existed, but Israel's defensive position as a nation under foreign domination restricted the spread of polytheism. A polytheist in post-exilic Israel was a traitor to the nation, a collaborator with the enemy. He would have been ostracized. The threats to orthodoxy in post-exilic Israel were legalism and pagan philosophy. It was the lure of Greek philosophy and culture, with its common-confession universalism and its aestheticism, that pulled cosmopolitan Jews away from Moses.[10] Meanwhile, legalists planted thickets of ritual hedges around the Mosaic law. The kernel of orthodoxy was either ground into flour and leavened with Hellenistic universalism or else smothered by the legalism of the Pharisees.

In modern times, the academic study of comparative religion has again become a threat to theological orthodoxy, not because the advocates of academic comparative religion invoke the sanctions of rival gods, but because they deny the supernatural existence of all gods. Academic comparative religion is a form of cultural relativism—indeed, the supreme form. It insists that the details of both theology and ritual change through time and across borders. This superficial academic polytheism is converted into implicit atheism by its uni-

10. Martin Hengel, *Judaism and Hellenism: Studies in their Encounter in Palestine during the Early Hellenistic Period*, 2 vols. (Philadelphia: Fortress, [1974] 1981), I, p. 313.

versalism. Here is the supposedly universal aspect of all religion: the common man's faith in supernatural beings and forces that do not exist. The universalism of religion is the *universalism of error* in the face of either as-yet unsolved questions or as-yet rejected answers. Religion's sanctions are said to be exclusively personal and social; all of the gods invoked by their disciples are equally without power. Men, not gods, impose sanctions in history, say the advocates of academic comparative religion. All of the gods have been disinherited by rational men, we are told, save one: the god of humanity. To inherit in history—the only inheritance that supposedly matters—men must invoke the god of humanity. It is this god alone that brings predictable positive sanctions to those who invoke its name and who subordinate themselves to its representative agents: customers (economic sanctions) and voters (political sanctions). All the other natural and social forces in history are understood by humanists as impersonal.

Comparative religion in post-conquest, pre-exilic Israel posed the threat of the elevation of local gods above the God of the Bible. Comparative religion in the modern world poses the threat of the de-throning of the God of the Bible and His banishment to the common pantheon of all other gods, save one: the god of humanity. This pantheon of gods no longer occupies the acropolis on the highest hill of the city. More likely, a local television transmission tower does.

The threat of comparative religion is the threat of idolatry. Idolatry invokes gods other than the God of the Bible, gods who are believed to be the most powerful sanctions-bringers in history. Ancient comparative religion invoked local gods; modern comparative religion invokes a universal god: mankind. The issue of sanctions in history necessarily raises the issue of inheritance in history. To inherit, men must ally themselves to the god who really does bring sanctions in history.

Conclusion

God told Moses that He would disinherit the gods of Canaan. He would do so by enabling the Israelites to disinherit the Canaanites. But He warned them not to worship the gods of defeated Canaan.

While the ancient world believed that the gods of a city that had lost a war were defeated along with the city's army, the fact is that the Israelites were sorely tempted to worship the gods of Canaan, despite Israel's victory over Canaanite cities. Moses warned that the presence of a remnant of surviving Canaanites would be interpreted

by Israel as though the gods of Canaan had overcome the God of the Bible, despite the fact that Israel had overthrown the idols of Canaan. Despite the fact that the losers had lost, the Israelites were tempted to worship the losers' gods. The losers became the winners in Mosaic Israel. Foreign agents had to destroy the remnants of Canaan's gods: Assyria and Babylon. These conquerors served as God's rod of discipline. "O Assyrian, the rod of mine anger, and the staff in their hand is mine indignation" (Isa. 10:5).

Israel's military defeat of Canaan should have meant the defeat of Canaan's gods. Only because Israel was ethically rebellious did traces of Canaan's old culture and old theology survive. These remnants of evil then served as evil leaven, just as Moses had warned. Only after the second defeat of Canaan's gods, as a result of the defeat of Israel by Assyria and Babylon, were the gods of Canaan finally disinherited. Israel had to be temporarily disinherited in order for Canaan's gods to be permanently disinherited.

33

THE LURE OF MAGIC: SOMETHING FOR NOTHING

If there arise among you a prophet, or a dreamer of dreams, and giveth thee a sign or a wonder, And the sign or the wonder come to pass, whereof he spake unto thee, saying, Let us go after other gods, which thou hast not known, and let us serve them; Thou shalt not hearken unto the words of that prophet, or that dreamer of dreams: for the LORD *your God proveth you, to know whether ye love the* LORD *your God with all your heart and with all your soul. Ye shall walk after the* LORD *your God, and fear him, and keep his commandments, and obey his voice, and ye shall serve him, and cleave unto him. And that prophet, or that dreamer of dreams, shall be put to death; because he hath spoken to turn you away from the* LORD *your God, which brought you out of the land of Egypt, and redeemed you out of the house of bondage, to thrust thee out of the way which the* LORD *thy God commanded thee to walk in. So shalt thou put the evil away from the midst of thee.*

DEUTERONOMY 13:1–5

The theocentric framework of this law is the love of God. The test of covenant-keepers' love of God is their willingness to obey God's law. "Ye shall walk after the LORD your God, and fear him, and keep his commandments, and obey his voice." The test is ethics.

A. The Mosaic Prophet's Judicial Role

Proper worship necessitates obedience to God's revealed law, Moses said. Worship, like wisdom, begins with the fear of God. Once again, Moses warned Israel to obey God's commandments. This is the continuing ethical theme of the Book of Deuteronomy, which constituted the second giving of the law. The point of this obedience, given the position of Deuteronomy as book five of the Pentateuch, is inheritance. *Covenant-keeping was the basis for maintaining the national inher-*

itance. It still is, but to affirm this is to break with modernism in its broadest interpretation.

This was a civil law because it mandated a penalty that could only be lawfully enforced by the civil government: execution. God tested Israel's love of Him by seeing whether the civil authorities would execute any prophet who came publicly in the name of another god. If they did execute him, the nation proved its love for God. If they refused, the nation did not love God. This was a cut-and-dried test.

This passage dealt with those people who claimed to be prophets. A prophet had a specific judicial function in Mosaic Israel: to declare to a God-designated audience God's direct revelation regarding the future. God would test their corporate faith by evaluating their behavior in response to the prophet's challenge. The biblical prophet delivered a *covenant lawsuit* against someone or against some group. If the listeners did not repent, the prophet warned, God would bring negative corporate sanctions against them. Sometimes the prophet's message was repentance.[1] Jonah's covenant-lawsuit against Nineveh is a representative example: "Repent or else be destroyed within forty days." Publicly, Jonah prophesied destruction only, but the possibility of their corporate repentance, and therefore their avoidance of negative corporate sanctions, had been implicit from the beginning (Jonah 4:2). Sometimes, however, the prophet's role was limited to provoking a confrontation prior to God's imposition of negative corporate sanctions. Elijah's confrontation with Ahab prior to the drought is representative (I Kings 17:1–5).

The prophet was usually outside the priestly hierarchy. He was rarely a member of the priestly tribe of Levi. Samuel, for example, was an Ephraimite (I Sam. 1:1).[2] Samuel anointed Saul, and he later announced God's sanction against Saul (I Sam. 15:28). The prophet at times announced that the nation was not obeying the law of God. He demanded in God's name that the existing legal order and the nation's dominant social practices be abandoned. This implied that his God-given authority was superior to that of the civil and ecclesiastical authorities. In the name of God's law, the prophet demanded the scrapping of the existing legal and social order.

The listeners' obvious response was: "Who are you to say?" When a man came before the nation in the name of the true God and His

1. Not always, however: Moses' prophetic role was not intended to gain Pharaoh's repentance. See below: section C, "Something for Nothing."

2. If Eli adopted him, which is possible, then Samuel was a member of Levi.

Bible-revealed law, he was inescapably a revolutionary in the eyes of a covenant-breaking Establishment. The covenantal question then arose: "In God's eyes, who is the *authorized representative* of the nation's God-sanctioned Establishment?" A related question arose: "What *evidence* does this man present which testifies to his office as a prophet?" This was what the fiery competition on Mt. Carmel between Elijah and the court prophets was all about (I Kings 18). This was a case of competing claims by competing prophets: 850 (v. 19) to one. Which prophet possessed the final authority to command the execution of the rival? Elijah issued this challenge. "And Elijah came unto all the people, and said, How long halt ye between two opinions? if the LORD be God, follow him: but if Baal, then follow him. And the people answered him not a word" (I Kings 18:21). He demanded that the representatives of the nation decide. He ignored King Ahab altogether because the king possessed no authority to decide. He appealed directly to representatives of the tribes.

When the king's prophets lost the competition, thereby identifying their judicial status as false prophets, Elijah commanded the civil representatives of the nation kill them all, which they did (I Kings 18:40). This was in accord with Deuteronomy 13:1–4. Yet Elijah was not a civil magistrate. No civil court had convicted these men. Nevertheless, under the Mosaic law, he possessed the lawful authority to command this public execution by representatives of the nation.

A prophet may have been able perform signs and wonders. He may even have predicted the future accurately. His possession of supernatural abilities—outside the normal space-time continuum—testified in part to his special legal status. This was partial evidence of his special relationship with God, but it was not sufficient to prove his claim of God-given authority. *Far more important than signs and wonders was his theological orthodoxy*. A true prophet had to come in the name of the God of Abraham, Isaac, and Jacob. It did not matter what signs and wonders he performed if he came in the name of another god. His signs and wonders might be deceptions, or they might even be authentically supernatural, but his message was itself a deception. No god other than the Bible's God could be lawfully worshipped publicly inside the borders of Israel. The prophet's ability to perform signs and wonders—below-cost shortcuts in the normal space-time continuum—had to be accompanied by orthodox theological confession. *The differentiating mark between magic and prophecy was theological confession*.

The law governing prophets was valid for as long as the office of prophet existed and as long as Israel possessed civil authority in the land. The office of prophet no longer exists. Neither does Mosaic Israel. The office ended with the Old Covenant in A.D. 70. So did Mosaic Israel. No one today possesses the God-given authority to announce to ordained church officers and civil officers that the judgment of God will fall on society or his audience if they do not obey his words. No private citizen can lawfully command the execution of 850 other men. A prophet who does not in principle possess the God-given authority to command the public execution of rebellious men is no prophet. Such authority was basic to the office of Mosaic prophet.

Some charismatics and Pentecostals assert that the office of prophet still exists. I have yet to read any theological defense by them of their position, which would have to prove the following: (1) the prophet offers a covenant lawsuit against men, including civil magistrates; (2) if the authorities disobey the prophet, God will impose specific negative sanctions against them and all those under their authority, and these sanctions are announced in advance by the prophet; (3) the capital civil sanction against false prophecy, which itself enforced Old Covenant prophecy, is still in force.

B. Boundaries and Prophecy

Men are creatures before God. They are under His authority. They are also under the constraints of the creation. They are not originally creative. They are re-creative as subordinates who are made in God's image.

1. Making Improvements

It is legitimate for men to re-work the creation by means of their knowledge of the laws governing the creation. Adam was told by God to dress the garden (Gen. 2:15). This means that God told Adam to re-work the creation. Adam was told to improve his environment. The world was originally created good, but Adam possessed the power and the lawful authority to make it better. He also had the responsibility to make it better. But he could lawfully exercise this authority only as a creature who acknowledged his limitations. He was required by God to acknowledge by his actions his belief in his own creaturehood and his subordination to God. He was not allowed to eat from the tree of the knowledge of good and evil. He understood this, and he told Eve. She represented Adam, who in turn represented God.

She spoke a prophetic word to the serpent: "But of the fruit of the tree which is in the midst of the garden, God hath said, Ye shall not eat of it, neither shall ye touch it, lest ye die" (Gen. 3:3). She added a new element, a kind of hedge: not touching the fruit. God had told Adam only not to eat it. Then she violated her own prophetic word. So did Adam. God then brought a covenant lawsuit against the serpent, Eve, and Adam, in the order of their rebellion, *from lower to higher*, in terms of His original prophetic word to Adam.

Prophecy concerned ethical boundaries: violate them, God warned, and predictable negative sanctions will come. Some of these sanctions will come predictably in history; all will come predictably in eternity. The prophet's job was to warn his audience of the adverse consequences of breaking God's covenant. The boundaries were enforced by God. Violate His ethical boundaries, and you will experience unpleasant consequences, the prophet warned. These ethical boundaries were testified to by the prophet's ability to overcome creational boundaries, some times called laws of nature. The Old Covenant prophet was empowered by God to escape these conventional limits because this ability testified to his authority in announcing both the ethical boundaries and the predictability of their attached sanctions. Violating the laws of nature was the prophet's means of calling a halt to the nation's violation of the laws of God.

2. Boundaries and Magic

To acknowledge the lawful boundaries that God has placed around man is to worship God by obeying Him. We are not to pursue our goals by means of magic. What is magic? It is any attempt to invoke any supernatural authority other than the God of the Bible, asking this force to alter man's environment by means of causation that is beyond temporal cause and effect. Magic is a method of calling on supernatural personal forces to alter the normal processes of either nature or history. Without supernatural intervention, man's ritual manipulations and invocations are powerless. A voodoo doll is a powerless implement of magical incantation apart from demonic intervention.

The element of repeatability is missing in magic because the supernatural cause is sometimes absent or powerless or obstinate. The supernatural cause of the sought-for outcome is not predictably present in the way that the ordinary means of temporal causation are predictably present. The personal "catalyst" that makes possible the

magical series of events is invoked, not employed. It is a conscious servant or accomplice, not an unconscious tool.

A prophet might seek to affirm his judicial office by altering nature at a distance or by forecasting events. If Israelites who were skilled craftsmen in this particular manipulation of nature or skilled forecasters of historical trends could not replicate his performance in a statistically significant number of cases, the self-proclaimed prophet did not thereby validate his office. He may have been a prophet, or he may have been a clever trickster, or he may have been a magician. The judicially compulsory evidence of his office as prophet was his verbal orthodoxy. The crucial test of his office was not his performance of signs and wonders; it was his confession of faith.

Modern science officially rejects the possibility of causation at a distance in the absence of some physical connection, with one gigantic exception—gravity[3]—and many very tiny ones: subatomic physics (the quantum). Science rejects the suggestion that demons and angels intervene in history. It also rejects the ability of God to do this. It denies that any such God exists. It asserts the autonomy of the cosmos. Modern scientific man is therefore a fool (Ps. 14:1; 53:1).

3. Idolatry

Herbert Schlossberg argued that there are two pagan idols: nature and history.[4] The quest for signs and wonders is a mark of these two idols. Schlossberg said that all social idols are idols of history. This would seem to include philosophy.[5] Historically, after the Israelites returned from the captivity, they ceased to worship the idols of Canaan. Simultaneously, philosophy arose in Greece and spread across the Mediterranean world. Hellenism became the preferred idol of choice among socially cultured Israelites until the fall of Jerusalem. Pharisaic legalism, which also arose in the post-exilic era, was a domestic theological error.[6] Legalism was defended in the name of Israel's God. Hellenism was defended in terms of a universal wisdom that transcended divisive supernatural revelation.

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3. The theory of interplanetary ether was nineteenth-century science's attempt to escape the concept of mass attracting at a distance in a vacuum.

4. Herbert Schlossberg, *Idols for Destruction: Christian Faith and Its Confrontation with American Society* (Westchester, Illinois: Crossway, [1983] 1993), p. 11.

5. There is a sense in which autonomous man regards philosophy as the mediating factor between nature and history.

6. Martin Hengel, *Judaism and Hellenism: Studies in their Encounter in Palestine during the Early Hellenistic Period*, 2 vols. (Philadelphia: Fortress, [1974] 1981), I, p. 313.

The primary covenantal issue of idolatry is transcendence. Something or someone is proclaimed as superior to God. In operation, this issue becomes ethical. An idol is any representative manifestation in history (point two) of a law-order that substitutes for God's (point three). Moses made it plain in Deuteronomy, over and over, that *obedience to God's commandments is the visible test of one's confessional orthodoxy*. A man who would subsequently call on Israelites to disobey these commandments, Moses said, was to be regarded as a fool. If he also named the name of another god, he was to be executed. "And that prophet, or that dreamer of dreams, shall be put to death; because he hath spoken to turn you away from the LORD your God, which brought you out of the land of Egypt, and redeemed you out of the house of bondage, to thrust thee out of the way which the LORD thy God commanded thee to walk in. So shalt thou put the evil away from the midst of thee" (Deut. 13:5).

C. Something for Nothing

For a man to escape the limits of temporal creation means that he can gain something for what appears to be nothing. By subordinating himself to supernatural powers that are forbidden by God, a man can sometimes escape the limits of temporal cause and effect. This ability to go beyond commonly repeatable causation offers to some initiates of occultism the possibility of gaining wealth, power, and influence over others. This lure is powerful. Men are impressed with magic, which seems to offer them access to a below-cost realm of human action, a realm that is in some unstated way connected to the realm of conventional causation.

The text indicates that signs and wonders were possible in the Old Covenant world. Moses himself had been in a battle of signs and wonders when he and Aaron challenged the priests of Egypt. The test was the test of the snakes. Moses' snakes ate the Egyptians' snakes. But the test decided nothing, for Pharaoh's heart was hardened. The visible test of the comparative signs and wonders did not persuade him (Ex. 7:10–14).

The message of the Bible is that while power is persuasive, orthodox confession is inherently more powerful. Moses' confession of faith through Aaron (Ex. 7:2) was more powerful than Pharaoh's confession of faith, and this was demonstrated by the victory of Aaron's serpents (Ex. 7:12).[7] Moses' confession did not change Pharaoh's

7. If the serpents of Pharaoh's prophets were mere trickery, then Moses' theological confession meant nothing. Aaron was merely a superior trickster.

mind, because the power of God in hardening Pharaoh's heart was more powerful than the persuasive power of the signs and wonders. God deliberately kept Pharaoh from changing his mind and therefore from changing his confession—an explanation that is rejected by all Arminians. But Arminians cannot escape Paul's words: "What shall we say then? Is there unrighteousness with God? God forbid. For he saith to Moses, I will have mercy on whom I will have mercy, and I will have compassion on whom I will have compassion. So then it is not of him that willeth, nor of him that runneth, but of God that sheweth mercy. For the scripture saith unto Pharaoh, Even for this same purpose have I raised thee up, that I might shew my power in thee, and that my name might be declared throughout all the earth. Therefore hath he mercy on whom he will have mercy, and whom he will he hardeneth" (Rom. 9:14–18). The absolute sovereignty of God with respect to salvation is manifested in history by His absolute sovereignty over every man's confession. "The king's heart is in the hand of the LORD, as the rivers of water: he turneth it whitherso ever he will" (Prov. 21:1).

Moses, in his office as a prophet (Deut. 34:10), was not sent by God in order to change Pharaoh's mind. He was sent to provide God with an occasion to demonstrate God's power in history: predictable sanctions. The end result inside the boundaries of Egypt was the transfer of the inheritance of Egypt's recently deceased firstborn sons to Israel (Ex. 12:35–36). The Egyptians had long believed that they could get something for nothing out of Israel: slave labor and the inheritance. At the time of the exodus, this generations-long miscalculation was exposed for all to see. The Egyptians had believed that the state's coercion of Israel would remain profitable: an efficient allocation of scarce resources. They were called to account by God at the time of the exodus. The tyranny of Egyptian socialism's commitment to a world of something for nothing led to a national economic disaster, as it always does. The historical model of all socialism is Pharaoh's Egypt: bureaucratic, tyrannical, and ultimately disastrous for those in charge.[8] The events of 1989–91 in Eastern Europe and the Union of Socialist Soviet Republics were merely recapitulations of the Egyptian model. These systems broke down economically, politically, and socially in a comprehensive collapse—remarkably, without much bloodshed.[9]

8. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 1, *Representation and Dominion* (1985).

9. Marxist politicians, having re-named their parties, returned to favor politically

The magician seeks to gain his ends by escaping from some of the limits of his own creaturehood. The creation places limits on him that he deeply resents, just as Adam resented the boundary around the forbidden tree. The magician seeks to escape the requirement that, in order to gain a new set of circumstances, he must give up something of value. He wishes to increase his wealth—to improve his circumstances—by holding onto his wealth and augmenting it in ways that do not threaten his wealth. He wants personal economic growth—an increase in the options available to him—without a threat to his net worth. He does not care who provides this for him. He also does not care if others in the economy suffer losses in order to provide his gains. He cares only about his own advancement and the advancement of those working with him. He is convinced that magic will provide these gains. He may even believe that his risk-free gains come at no one's expense. But whatever his belief regarding the source of his gains, he believes that he does not have to offer something of greater value in the estimation of a trading partner than what ever he expects to receive in exchange.

Yet even he suspects that there is never something for nothing. He is at risk. He knows that if he performs his invocation incorrectly, he could lose everything. He knows that the supernatural power invoked has the power to provide benefits from outside the space-time continuum. The threat of loss is inescapable: such a power can also impose costs from outside the space-time continuum. This is the reason for the extreme concern of the magician regarding the details of incantations, formulas, and rituals. Because of the risk of dealing with supernatural forces that are personal, jealous, and quite possibly malevolent, the experienced magician is extremely cautious. The details of supernatural rituals become as important to him as the details of scientific procedure are for scientists when dealing with explosives or viruses. The malevolent whims of the supernatural force invoked by the incantation or formula are more of a threat to the magician than the outcomes of most of nature's formulas are for the scientist or the craftsman. Tools do not seek revenge against their users. Demons do.

The magician seeks to obtain something for nothing. It is not that he seeks personal gain at minimal expenditure. We all do this. What

within a few years in some of these Eastern European nations. Eastern Europeans had not been prepared for freedom and responsibility in 1990. The moral erosion and escape from personal responsibility fostered by socialism had done its work. The lure of something for nothing is still very strong.

he seeks is access to wealth or power outside the realm of ethical law and scientific law. He substitutes ritual for ethics. Ritual seems cheaper than ethics. In doing so, he risks something very important for the sake of something far less important. "For what is a man profited, if he shall gain the whole world, and lose his own soul? or what shall a man give in exchange for his soul?" (Matt. 16:26).[10]

D. The Annulment of the Mosaic Office of Prophet

The two-fold test of the prophetic office was this: accurate predictions of the immediate future and adherence to the God of Abraham, Isaac, and Jacob. The death penalty was mandatory for any prophet whose predictions failed to come true—signs and wonders (Deut. 13:1–5) or any other event (Deut. 18:22)—or who announced the sovereignty of any other god (Deut. 18:20). There was a very high risk for anyone claiming to be a prophet whose words had not been put into his mouth by God. Or so it seemed. But in times of widespread apostasy, there was little risk for a false prophet for speaking a false word. In times of apostasy, the word of God is not honored. The false prophet is honored; the true prophet is not. So, negative civil sanctions would be imposed on the true prophet, which was the case in Israel again and again. Then God's corporate negative sanctions would come with a vengeance.

1. Jesus as a Prophet

Jesus Christ's ministry was the fulfillment of the prophetic office, which He annulled when He came in judgment in the final act of corporate negative sanctions against Old Covenant Israel: the fall of Jerusalem in A.D. 70.[11] He knew what was in store for Him and what would then be in store for Israel. He warned the religious rulers that this would be the case, for it had always been the fate of prophets to be put under negative sanctions by the rulers of Israel, leaving the nation exposed to God's wrath.

> Woe unto you, scribes and Pharisees, hypocrites! because ye build the tombs of the prophets, and garnish the sepulchres of the righteous, And say, If we had been in the days of our fathers, we would not have been partakers with them in the blood of the prophets. Wherefore ye be witnesses

10. Gary North, *Priorities and Dominion: An Economic Commentary on Matthew*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 35.

11. David Chilton, *The Days of Vengeance: An Exposition of the Book of Revelation* (Ft. Worth, Texas: Dominion Press, 1987).

> unto your selves, that ye are the children of them which killed the prophets. Fill ye up then the measure of your fathers. Ye serpents, ye generation of vipers, how can ye escape the damnation of hell? Wherefore, behold, I send unto you prophets, and wise men, and scribes: and some of them ye shall kill and crucify; and some of them shall ye scourge in your synagogues, and persecute them from city to city: That upon you may come all the righteous blood shed upon the earth, from the blood of righteous Abel unto the blood of Zacharias son of Barachias, whom ye slew between the temple and the altar. Verily I say unto you, All these things shall come upon this generation. O Jerusalem, Jerusalem, thou that killest the prophets, and stonest them which are sent unto thee, how often would I have gathered thy children together, even as a hen gathereth her chickens under her wings, and ye would not! Behold, your house is left unto you desolate (Matt. 23:29–38).

2. The Bible's Prophetic Monopoly

The completion of the New Testament era of revelation with the destruction of Jerusalem completed the judicially binding revelation of God. All of the New Testament's manuscripts were written before the final revocation of the Old Covenant in A.D. 70. This includes the Book of Revelation.[12] This means that the Bible has supplanted the covenantal authority of any man to announce formally, on threat of historically unique supernatural sanctions, the annulment of any biblical law that came prior to his ministry. Similarly, he cannot lawfully announce new universally binding laws in God's name. The office of prophet no longer exists; the Bible is God's only final word in history.

The Mosaic law's prophet could lawfully tell kings to change the nation's laws on threat of immediate national punishment. A true prophet's ability to perform signs and wonders verified two things: (1) his ability to invoke supernatural sanctions to enforce his covenant lawsuit; (2) his ability to see that God would defend the prophet's lawsuit by imposing specific sanctions. Such authority belongs to no man today. No man today speaks with the same authority as the completed Bible. No man can lawfully invoke publicly God's specific historical sanctions in a specific time frame. He can only invoke the general covenantal sanctions that apply to the kind of sin under consideration. He can speak prophetically only in the sense of warning men of the sanctions to come; he cannot lawfully invoke sanctions in the way that an Old Covenant prophet could: guaranteed in the

12. Kenneth L. Gentry, *Before Jerusalem Fell: Dating the Book of Revelation* (Tyler, Texas: Institute for Christian Economics, 1989).

immediate future in the name of God. "And Elijah answered and said to the captain of fifty, If I be a man of God, then let fire come down from heaven, and consume thee and thy fifty. And there came down fire from heaven, and consumed him and his fifty" (II Kings 1:10). This power is no longer granted by God to anyone who speaks in His name. The very possession of power analogous to this is evidence of false prophecy; it is demonic. Such power was necessary to validate a prophet's word, which was given to him by God only because God's judicially authoritative revelation had not yet been completed. The prophet was authoritatively inspired. In the world after the final replacement of the Old Covenant in A.D. 70, no one is authoritatively inspired. If he were, his words would possess formal equality with the Bible, and because of the immediate nature of his inspiration, superior operational authority.

This does not mean that an evangelist on the foreign mission field cannot lawfully counteract curses that are invoked by some shaman or witch doctor. He can and should. The test of supernatural power is at stake. But the evangelist is not imposing negative supernatural sanctions. He is short-circuiting negative supernatural sanctions. Any evangelist who seeks conversions by publicly invoking supernatural negative sanctions, imposed physically and at a specific time, is imitating Satan. Praying an imprecatory psalm[13] against public law breakers is legitimate for a lawfully ordained officer. Calling down literal fire from heaven is not.

3. Civil Law

The question arises: What is the lawful role of civil government in suppressing false prophecy? Is this law still in force? "And that prophet, or that dreamer of dreams, shall be put to death; because he hath spoken to turn you away from the LORD your God, which brought you out of the land of Egypt, and redeemed you out of the house of bondage, to thrust thee out of the way which the LORD thy God commanded thee to walk in. So shalt thou put the evil away from the midst of thee" (Deut. 13:5).

If the office of true prophet no longer exists, then what is the covenantal, judicial threat to society of a false prophet? There is none. The threat of God's corporate negative sanctions no longer exists with respect to false prophecy, since the promise of God's corporate positive sanctions no longer exists with respect to true prophecy, hav-

13. Imprecatory psalms include Psalm 83:9–18; 68:1–2; 79:6, 10–12.

ing been annulled by the New Covenant. Then on what basis can a civil government lawfully impose negative sanctions against a false prophecy that does not come true? There seems to be none. *The office has been annulled. So have the related sanctions.*

A false prophet under the Mosaic law was judicially analogous to a private citizen today who makes a policeman's uniform, dons it, and then tells people what to do in the name of the law. This is illegal: the assertion of civil authority not ordained by a lawful government. The false prophet in Israel made a similar assertion. The sanction against this illegitimate assertion was public execution. If there were no office of policeman today, there would be no need of civil laws against imitating one. If every police uniform were regarded as merely a funny costume, there would be no justification for imposing civil sanctions against someone who wears such a costume and then announces his authority in the name of the law. If a costume does not imply sanctions-bearing authority, it is judicially harmless. If it is judicially harmless, it is beyond civil sanctions.[14]

The Bible is now complete. It serves as prophet. It tells people what is required of them. The voice of God is in print. No other voice can claim equal authority. Thus, there is no judicial role for a prophet in the post-A.D. 70 New Covenant era. *There have been no false prophets since A.D. 70 because there have been no true prophets.* Today, there are only misguided or corrupt people who claim to be prophets. Their claim should be dismissed, not by civil law, but by ecclesiastical law. Church members who make such claims, and who demand that Christians do what they say rather than obey lawfully constituted church authorities, are to be placed under negative church sanctions. If they persist in their claims, they may have to be excommunicated. They are not to be executed.

Conclusion

There is no way to gain something for nothing apart from the grace of God. Even here, the covenantal limits of creation are still in force. God extends grace to individuals and societies because He revoked deserved blessings from His Son, Jesus Christ, in the latter's sacrifice on Calvary. The payment was made by Jesus Christ. By grace, Christ's representative victory over sin and death is extended by God to men. "For Christ also hath once suffered for sins, the just for the unjust,

14. A trademarked costume is protected by civil law, but only as a matter of torts: private party vs. private party. The threatened sanctions are a matter of restitution.

that he might bring us to God, being put to death in the flesh, but quickened by the Spirit" (I Peter 3:18). That which is a below-cost benefit for the recipients of God's grace has been paid for. Some men gain something valuable for nothing because Jesus Christ suffered something terrible for righteousness. Thus, the Bible testifies to the covenantal illegitimacy of the economic quest for something for nothing.

The magician can perform signs and wonders. What distinguished him from the prophet under the Old Covenant was confession. The prophet warned men that they should not expect something for nothing. They should not expect to keep the fruits of righteousness apart from the continual investment required to sustain it: covenantal faithfulness. The prophet warned men that they should not expect something (fruits) for nothing (sin). If men persisted in the pursuit of something for nothing, they would reap judgment. The day of reckoning would come. This was the prophet's message. It was a covenantal lawsuit based on an orthodox confession of faith. That a true prophet might perform signs and wonders—what appeared to be something for nothing—was in fact a confirmation of the fact that there is never something for nothing. When men gain something for nothing, they do so only because they are recipients of grace, which rests judicially on supernatural payment by a representative. The pursuit of something for nothing eventually brings God's judgment: negative sanctions.

The magician also was beyond conventional historical limits, but his message was different. He performed his miracles in terms of a different confession. He promised more of the same—power on demand—for those who conformed to another god. Such a god could not bring permanent below-cost benefits, Moses warned. God would bring negative corporate sanctions on Israel if the nation believed such a prophet. More than this: God would bring negative sanctions on Israel if Israel's civil government failed to execute false prophets. This covenantal connection between widespread law-breaking and predictable corporate negative sanctions was the justification of civil sanctions: the threat of God's corporate negative sanctions if a public evil was not brought under the threat of civil sanctions. The magistrate acted as a surrogate for God, imposing Bible-mandated negative sanctions on specific covenant-breakers as a way to head off God's corporate negative sanctions. This is equally true in New Covenant times.

The reason why this Mosaic civil sanction is no longer mandated is because the office of prophet has ceased. The Bible has replaced the prophet under the New Covenant. No man speaks with authority equal to, and therefore superior to, the Bible. The threat of false prophecy is no longer civil. No private party lawfully commands civil rulers in the name of God on threat of God's immediate negative sanctions. The office of Mosaic prophet has no judicial authority today. Neither does the office of false prophet. The state therefore does not need a penalty in order to defend the true prophet's authority from false prophets.

34

COMMERCE AND COVENANT

> *Ye shall not eat of any thing that dieth of itself: thou shalt give it unto the stranger* [geyr] *that is in thy gates, that he may eat it; or thou mayest sell it unto an alien* [nokree]*: for thou art an holy people unto the* LORD *thy God. Thou shalt not seethe a kid in his mother's milk.*
>
> DEUTERONOMY 14:21

There is no explicit reason given in the Bible for either of these prohibitions. This makes it difficult to identify the theocentric focus of either prohibition. They are clearly holiness laws. Holiness is an aspect of point three of the biblical covenant: boundaries.

The first law is clearly a land law. The dietary laws were laws that applied to covenanted residents of the Promised Land, or those men who had an inheritance in Israel through circumcision. This law dealt with unclean meat.[1] The land laws ended with the destruction of Jerusalem in A.D. 70. Peter in a vision was told by God to eat unclean animals (Acts 10). Paul wrote: "As concerning therefore the eating of those things that are offered in sacrifice unto idols, we know that an idol is nothing in the world, and that there is none other God but one" (I Cor. 8:4).

The first law governed ritually clean animals that died naturally. The second law governed a specific case: seething a kid in its mother's milk. The second law has no specific economic application that I can see. The first law does. Theologically, these are separate verses.

A. Holiness Laws

The first prohibition cannot have had anything to do with health, since the law specified that strangers in the land were allowed to eat

1. On land laws, see Appendix J.

such meat. God would not deliberately have threatened the health of a resident alien. To call biologically contaminated meat a gift would have been a terrible misuse of language. The Hebrew word for "gift" here is found throughout the Old Testament. God's gifts to mankind and to Israel were in no way polluted or threatening; neither was this gift. So, this law was based on something other than health issues.

The Mosaic law prohibited the eating of animals that had died naturally. The sanctions attached to this prohibition were mild. "And every soul that eateth that which died of itself, or that which was torn with beasts, whether it be one of your own country, or a stranger, he shall both wash his clothes, and bathe himself in water, and be unclean until the even: then shall he be clean" (Lev. 17:15). Because this law applied to the resident alien, it was not exclusively ecclesiastical, since the uncircumcised stranger or "protected stranger"[2] [*geyr*] did not belong to the congregation. But there were no civil penalties mentioned. So, with respect to the stranger, the law against eating such meat was merely a suggestion. The matter of ritual cleanliness did not affect him. If he ever did approach the tabernacle, which was the only place where ritual uncleanliness was a threat to him or to the nation, it would have been to offer sacrifice (Num. 15:29). In this case, he was under the purity restrictions. Otherwise, he was not holy to the degree that an Israelite was, so the threat of uncleanliness was of no importance to him, just so long as he did not attempt to approach the tabernacle, thereby committing a boundary violation.

He was holy in the sense of being set apart—holy—as a resident in Israel, a person living under Mosaic civil law. He was set apart to this degree: he was a beneficiary of the common grace of God that overflowed within the land's boundaries because of the special grace shown to Israel. He was set apart by God in a way that a resident of another land was not. He could eat such meat, but it was not legal to sell it to him. It had to be a gift. One presumption of this law was that a stranger in economic need was threatened by poverty more than Israel was threatened by a stranger who ate such meat. It was lawful for an Israelite to make a gift of prohibited meat to him. For the inconvenience of a ritual washing, the Israelite could remove any ritual pollution that might extend beyond evening. If the resident alien had qualms about eating such meat, he could sell it to a non-resident alien [*nokree*], just as an Israelite could.

2. Jacob Milgrom, *The JPS Torah Commentary: Numbers* (New York: Jewish Publication Society, 1990), p. 398.

B. Degrees of Holiness

I have covered the topics of sacred, profane, and common at some length in chapter 6 of *Boundaries and Dominion*. I discussed why the sacred can be profaned by a boundary violation, but the common cannot be. The sacred character of something creates the possibility of a ritual boundary violation. *We cannot profane something that is common*.

The closer a person came to the holy of holies, the more dangerous he became: to himself and to Israel. God did not tolerate anyone except the high priest to enter the holy of holies, and then only once a year (Ex. 30:10; Lev. 16:34). A boundary violation in this case threatened the nation. God might depart from the holy land of Israel.

A holy object must be protected from violation. What was the holy object in question in this verse? The Israelite? The meat? The land? The covenant? The tabernacle? Another Mosaic law points to the status of the Israelite as holy: the law governing the clean animal slain in the field by wild beasts. "And ye shall be holy men unto me: neither shall ye eat any flesh that is torn of beasts in the field; ye shall cast it to the dogs" (Ex. 22:31). The meat of an animal that had died of sickness, old age, or an accident was not holy. It was not to be set aside to God for His exclusive use. On the contrary, it was to be consumed inside the holy land only by two classes of foreigners: resident aliens [*geyr*] and foreign visitors [*nokree*].

The Israelite could not lawfully eat it, but he could touch it in order to transport it. If he touched it, he became unclean (Lev. 11:39), but this was not much of a burden. To cleanse himself ritually, he merely had to wash himself and his clothes. "But all other flying creeping things, which have four feet, shall be an abomination unto you. And for these ye shall be unclean: whosoever toucheth the carcass of them shall be unclean until the even. And whosoever beareth ought of the carcass of them shall wash his clothes, and be unclean until the even" (Lev. 11:23–25). "And he that beareth the carcass of them shall wash his clothes, and be unclean until the even: they are unclean unto you" (Lev. 11:28). If an Israelite was not planning to approach the tabernacle, his unclean status did not matter.

The Israelite could pick up the dead animal and transport it to a commercial center. He could then lawfully sell it to a visiting foreigner. He could also give it to a resident alien who was willing to live under God's civil laws. This alien was the equivalent of a refugee. He was not a citizen, nor was he a member of the congregation, but he was a lawful member of the community.

This indicates two degrees of holiness: the Israelite and the resident alien. It also indicates non-holy status: the non-resident alien. The resident alien was entitled to special consideration in the Mosaic law. For example, he could not lawfully be charged interest when he sought an emergency loan (Lev. 25:35).[3] However, it was legal to charge interest to a *nokree* (Deut. 23:20).[4] In this case, the resident alien could be given an asset that was illegal for an Israelite to use for himself. The non-resident alien could be charged a price.

If an Israelite wanted to profit from his dead animal, he could sell it to a non-resident alien. He could not lawfully profit from a resident alien. He could not lawfully enter into commerce in this instance with a resident alien. This would have tended to direct the prohibited meat into commerce. Most people prefer profit to charity most of the time. The meat of animals that had died of natural causes would have tended to wind up on the tables of travelers and foreign businessmen.

The living animal had been ritually clean, no matter who owned it, but it was prohibited to Israelites because of the way it had died. So, the difference in holiness had to be in *the judicial status of its original owner*. The Israelite was a priest to the nations. He was under God's national covenant. The resident alien was voluntarily under the laws of the land on a permanent basis, but he had not sworn a covenantal oath to God. The visiting stranger was under the law only temporarily. *The relationship between the person and the land* seems to have been the distinguishing issue here. The Israelite was tied to the land covenantally. The resident alien was tied to the land residentially. The stranger was tied to the land commercially. The commercial tie was seen as having no judicially permanent status. There was no oath-bound bonding in commerce. This is a general principle of biblical economics: *the transitory character of commerce*. It possesses no covenantal aspect; it is contractual, not covenantal.

The *holiness of the land* of Mosaic Israel was presumed by this law. The degree of holiness of people was tied to the permanence of their connection to the land. The land was holy, so the meat could not lawfully be consumed by those who had an oath-bound connection to the land. In the mouths of the permanent residents of God's holy land, the meat became profane. In the mouths of the less permanent

3. Gary North, *Boundaries and Dominion: An Economic Commentary on Leviticus*, 2nd ed. (Dallas, Georgia: Point Five Press, [1994] 2012), ch. 28.

4. Chapter 57. Cf. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 3, *Tools of Dominion* (1990), ch. 49:C.

resident aliens, it became profane if it had been purchased. In the mouths of non-residents, it was not profane at all. The most pure individual could not eat the meat because of his permanent connection to the land. The less pure individual could not buy the meat because of his voluntary connection to the land. The impure individual could buy the meat because of his commercial connection to the land.

With the coming of the New Covenant, the land of Israel began to lose its covenantal status. With the fall of Jerusalem in A.D. 70, it lost its covenantal status completely. There is no longer any holy land except in a travel brochure—a distinctly commercial artifact. The non-holy status of the land was not changed by the formation of the State of Israel in 1948, contrary to Zionists and dispensationalists. God dwells equally with all of His chosen Trinitarian people today; they approach Him judicially only in oaths and sacraments.[5] Land ownership in the New Covenant has moved from the legal status of holy to that of commerce. While land ownership may possess special characteristics because of the commitment that men some times have to a family residence, their constant movement from place to place has undermined this traditional commitment. In the United States, where one-fifth of the population moves each year, land ownership is no longer widely regarded as fundamentally different from the ownership of other forms of wealth. The mobility of people has undermined any lingering sense of the holiness of land. Men move geographically today in terms of the free market's demand for their labor or their land. This has led to the *psychological de-sacralization* of land.[6] This psychological de-sacralization process is less advanced in Europe and parts of Asia, but as the free market extends its influence, mobility

5. God has a special protecting relationship with the Jews as self-professed covenantal heirs of Old Covenant Israel insofar as He preserves their separate identity in history. He does this in order to fulfill Paul's prophecy regarding Old Covenant Israel, the branch which God has cut off: "And they also, if they abide not still in unbelief, shall be graffed in: for God is able to graff them in again. For if thou wert cut out of the olive tree which is wild by nature, and wert graffed contrary to nature into a good olive tree: how much more shall these, which be the natural branches, be graffed into their own olive tree?" (Rom. 11:23–24). But these disinherited heirs of Moses can reclaim their share of the inheritance only by becoming Christians and joining Christ's church. Gary North, *Cooperation and Dominion: An Economic Commentary on Romans*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 8.

6. It has also led to a loosening of the bond between the owner and the physical object owned. Schumpeter wrote in 1942: "Dematerialized, defunctionalized and absentee ownership does not impress and call forth moral allegiance as the vital form of property did." Joseph Schumpeter, *Capitalism, Socialism, and Democracy* (New York: Harper, [1942] 1947), p. 142.

replaces permanence in every area of life. The free market erodes the sense of geographical community. Neither the local community nor the land retains men's permanent allegiance. Consumer demand extends its sovereignty as men seek to maximize their incomes. Consumer demand is constantly changing; so are men's residences.[7]

C. Commerce and Purity

The biological purity of meat was not a judicial question. Neither was the ritual purity of the meat. The ritual purity of the eater was.

Because the eater's degree of holiness was based on his degree of permanence in the holy land, the meat was available for limited commerce. The market value of the meat would be determined by the market demand for it. The Israelite owner could act as the economic agent of two kinds of aliens: resident and non-resident. The seller could not legally accept an economic bid by a resident alien. The Israelite decided which alien would receive the carcass of the animal. Charity would govern the transfer of ownership to the resident alien; commerce would govern the transfer to the non-resident alien.

The purity of the land became an economic advantage to the non-resident alien: subsidized meat. He would be the only legal bidder in the auction for this kind of meat. This is another way of saying that *it paid foreigners to do business inside the boundaries of Israel*. The non-resident alien had an advantage over the residents of the land: oligopolistic[8] access to the free market for this form of meat.

The purity of the land therefore served as an economic barrier to entry against a foreigner's resident alien status. A non-resident alien would forfeit his legal access to this segment of the meat market if he decided to take up permanent residence. He might occasionally be given free meat, but he could no longer bid commercially for this form of meat. This was a cost of becoming a resident. Yet the imposition of this cost was unique: the loss of an indirect subsidy. A nation that offered an indirect subsidy to non-resident foreigners was unique in the ancient world.

God did not waste this form of meat, yet He did impose tight holiness restrictions on His people. The animal would not be totally

7. Part of this mobility is a product of government-guaranteed long-term loans in which part of the risk of default by the debtor is borne by taxpayers rather than lenders. This coercive arrangement has subsidized mobility and has undermined community. So have government-funded highway systems.

8. Technically speaking, oligopsonistic: one class of lawful buyers.

worthless just because it had died of natural causes. There would be a market for its meat. This saved the Israelite from a total loss. But this law did impose some loss on the Israelites: a restricted market. There were economic costs of holiness.

Concerns about holiness did not eliminate the market in this case. Did they eliminate the market in other cases? What about unclean animals? Were they under similar restrictions: total for Israelites, partial for resident aliens, and non-existent for non-residents? Could an Israelite lawfully sell pork to non-resident aliens?

The purity laws were designed for the sake of the land. The degree of one's legal connection to the land marked the degree of restriction in the case of the animal that had died naturally. Such deaths would occur from time to time. The economic question was this: How to minimize this loss without compromising the purity of the land? The law allowing meat sales to non-resident aliens reduced the risk to Israelites of raising ritually clean animals. There would at least be some local demand for such dead beasts. But had this specific limitation on unavoidable losses been applied generally, it would have led to the commercialization of unclean foods. For example, had it been legal for Israelites to sell pork to non-resident aliens, some Israelites would have begun commercial ventures for this purpose. The land would have become filled with unclean beasts, thereby increasing the likelihood of prohibited contacts by Israelites with such beasts. So, in order to reduce the economic loss imposed by the unforeseen death of a clean animal, the Mosaic law made two exceptions to the rule against eating ritually clean animals that died naturally. This reduced economic risk in the clean-animal industry. But the Mosaic law did not encourage the production of unclean animals by opening up a local market for them. Commerce was not supposed to increase the number of ritually impure animals; it was merely to decrease the economic risk of an unforeseen loss of a clean animal.

This law must have increased the slaughter of sick but ritually clean animals. The owner's risk of losing access to the broader commercial market increased as a clean animal aged or grew sick. He knew that if it died, the market for its remains would shrink dramatically. To avoid the requirement of providing non-resident aliens with an economic subsidy—reduced competition for such meat on the demand side—the Israelite had to kill the animal before it died of natural causes. Also, a weak animal would become easy prey of wild beasts. If they got to the animal first, only the dogs would benefit. It should be clear

that the economics of the Mosaic law encouraged the slaying of clean animals. *The holiness of the land led to the slaying of ritually clean animals. Blood would be shed for the benefit of the righteous*. The blood of animals would be poured into the land. "Only ye shall not eat the blood; ye shall pour it upon the earth as water" (Deut. 12:16).[9]

D. The Annulment of the Mosaic Land Laws

The fact that meat which was prohibited to an Israelite could lawfully be sold to a non-resident alien indicates that this law was a land law. He who had no legal attachment to the land had legal access to a commercial market for such meat. The purity of the land was not threatened by the consumption of such meat by aliens. The holiness of the land was not threatened in this case by the eating habits of those with no covenantal connection to the land.

This is another piece of evidence that the Mosaic food laws were land laws, not health laws or laws of moral purity. I have developed this thesis in my commentary on Leviticus.[10] The food laws protected the land's holy status as God's place of residence. These laws tended to keep foreigners out of the nation who might otherwise settle there. *Food laws were barriers to entry*. People had to change their diets or their budgets when they entered Israel. People do not like to change their diets or their budgets. It takes a strong-willed person to make a break with his nation's culinary tradition. If this break must become permanent, it takes considerable will. The cost of maintaining an imported diet was high. It was legal, but the availability of prohibited meat[11] would have been reduced below what it would otherwise have been, had there been no dietary laws. Those who were not covenanted with the God of Israel would have had either an emotionally difficult time adjusting their diets or a costly time inside the land for not adjusting.

The holy status of the land of Israel ended with the advent of the church. Jesus had predicted this to the Jews: "Therefore say I unto you, The kingdom of God shall be taken from you, and given to a nation bringing forth the fruits thereof" (Matt. 21:43). This prophecy was definitively fulfilled with His death and resurrection: the giving of the Great Commission to the church (Matt. 28:18–20).[12]

9. See also Leviticus 7:26–27; 17:10–14; 19:26; Deuteronomy 12:23; 15:23.

10. North, *Boundaries and Dominion*, ch. 21:C.

11. It would have been salted or smoked; there was no refrigeration.

12. Kenneth L. Gentry, Jr., *The Greatness of the Great Commission: The Christian Enterprise in a Fallen World* (Tyler, Texas: Institute for Christian Economics, 1990).

It was extended progressively after the sending of the Holy Spirit to the church (Acts 2). It was finally fulfilled with the fall of Jerusalem, when the temple sacrifices ended forever.

E. The Annulment of the Mosaic Food Laws

The Mosaic food laws had no connection with health considerations. God had not subjected Noah and Abraham to increased health risks by allowing them to eat whatever they wanted. God's covenant with Abraham looked forward to the conquest of the land, but it did not impose either land laws or food laws. *The food laws were holiness laws established to reinforce the holiness of the land*. This is why they were announced by Moses, not by Abraham or Noah. After the fall of Jerusalem, these laws were finally annulled. But Jesus had already announced their definitive demise. "Not that which goeth into the mouth defileth a man; but that which cometh out of the mouth, this defileth a man" (Matt. 15:11). Peter had received a revelation from God regarding the definitive annulment of the food laws.

> On the morrow, as they went on their journey, and drew nigh unto the city, Peter went up upon the housetop to pray about the sixth hour: And he became very hungry, and would have eaten: but while they made ready, he fell into a trance, And saw heaven opened, and a certain vessel descending unto him, as it had been a great sheet knit at the four corners, and let down to the earth: Wherein were all manner of four footed beasts of the earth, and wild beasts, and creeping things, and fowls of the air. And there came a voice to him, Rise, Peter; kill, and eat. But Peter said, Not so, Lord; for I have never eaten any thing that is common or unclean. And the voice spake unto him again the second time, What God hath cleansed, that call not thou common. This was done thrice: and the vessel was received up again into heaven (Acts 10:9–16).

Peter understood what this revelation meant. As he announced to Cornelius, the centurion: "Ye know how that it is an unlawful thing for a man that is a Jew to keep company, or come unto one of another nation; but God hath shewed me that I should not call any man common or unclean" (Acts 10:28). This was an announcement by God to the world that the land of Israel had *definitively* lost its separate judicial status. Peter forgot. Paul later called it to his attention.

> But when Peter was come to Antioch, I withstood him to the face, because he was to be blamed. For before that certain came from James, he did eat with the Gentiles: but when they were come, he withdrew and separated himself, fearing them which were of the circumcision. And the other Jews

> dissembled like wise with him; insomuch that Barnabas also was carried away with their dissimulation. But when I saw that they walked not uprightly according to the truth of the gospel, I said unto Peter before them all, If thou, being a Jew, livest after the manner of Gentiles, and not as do the Jews, why compellest thou the Gentiles to live as do the Jews? (Gal. 2:11–14)

Calvin was adamant about the abolition of the Mosaic food laws. In his commentary on Acts 15, he ridiculed those who would revive any aspect of the food laws. Calvin was a master of invective, and we see it here:

> As touching meats, after the abrogating of the law, God pronounceth that they are all pure and clean. If, on the other side, there start up a mortal man, making a new difference, forbidding certain, he taketh unto himself the authority and power of God by sacrilegious boldness. Of this stamp were the old heretics, Montanus, Priscillianus, the Donatists, the Tatians, and all the Encratites. Afterwards the Pope, to the end he might bind all those sects in a bundle, made a law concerning meats. And there is no cause why the patrons of this impiety should babble that they do not imagine any uncleanness in meats, but that men are forbidden to eat flesh upon certain days, to tame the flesh. For seeing they eat such meats as are most fit, both for delicacy and also for riot, why do they abstain from eating bacon, as from some great offence, save only because they imagine that that is unclean and polluted which is forbidden by the law of their idol? With like pride doth the tyranny of the Pope rage in all parts of life; for there is nothing wherein he layeth not snares to entangle the miserable consciences of men. But let us trust to the heavenly oracle, and freely despise all his inhibitions. We must always ask the mouth of the Lord, that we may thereby be assured what we may lawfully do; forasmuch as it was not lawful even for Peter to make that profane which was lawful by the Word of God.[13]

Anti-bacon babblers: Calvin had no toleration for such as these! Any attempt to revive the Mosaic food laws for any reason is a move leading out of the church. The only biblical food laws today apply exclusively to the Lord's Supper, a mandatory meal for Christians that is legally barred to non-Christians and non-members of Christian churches. Lawful access to the Lord's Supper is by formal ecclesiastical oath and oath-sign: baptism.

Ever since Vatican II (1963–65), Roman Catholics have been allowed to eat meat on Fridays. The prohibition had been based on ab-

13. John Calvin, *Commentary upon the Acts of the Apostles*, 2 vols. (Grand Rapids, Michigan: Baker, [1560] 1979), I, pp. 422–23.

stinence for Good Friday's sake, not the Mosaic food laws' sake. Paul criticized this attitude as marking those who have departed from the faith (I Tim. 4:1): "Forbidding to marry, and commanding to abstain from meats, which God hath created to be received with thanksgiving of them which believe and know the truth" (I Tim. 4:3).[14] Today, the prohibition against meat on Fridays does not exist. Catholics have finally adopted the Protestants' position. It took a long time. There has been no admission by the hierarchy that the Protestants were right after all. That is not how bureaucracies operate. The truth is, theological modernists have infiltrated the Roman Catholic Church. This would be an even more embarrassing official admission. An embarrassed silence covers the decision to abolish meatless Fridays. So, Catholics can now eat meat, but the Church, despite official proclamations by the Pope, welcomes homosexuals into its seminaries. A 2002 article in *Newsweek* reported that at St. John's Seminary in Camarillo, California, 30% to 70% of its students are either homosexuals or bisexuals. The school's rector admits that the figure may be as high as 50%. He also said, "I think we do a good job recruiting solid candidates, and welcome the opportunity to do better."[15] Meanwhile, heterosexual men are avoiding the priesthood in droves.[16] The Church was better off with meatless Fridays and fewer liberals. But those days are dead and gone.

Conclusion

The law allowing the sale of certain meats to non-resident aliens reduced the burden of an unforeseen loss due to the unexpected death of a clean animal. This law also preserved the holiness of the land by placing restrictions on Israelites and resident aliens. The non-resident alien received an indirect economic subsidy because of this law. He could buy what Israelites and resident aliens could not.

The resident alien who bought such meat from an Israelite committed no civil crime. The Israelite who sold it to him did commit an ecclesiastical infraction. With respect to the locus of law enforcement, the food laws were to be enforced by priests, Levites, and family members; they were not civil laws. They had civil implications—

14. Gary North, *Hierarchy and Dominion: An Economic Commentary on First Timothy*, 2nd ed. (Dallas, Georgia: Point Five Press, [2001] 2012), ch. 5.

15. David France, "Gays and the Seminary," *Newsweek* (May 20, 2002).

16. Michael S. Rose, *Goodbye, Good Men: How Liberals Brought Corruption into the Catholic Church* (Washington, D.C.: Regnery, 2002).

citizenship through church membership—but not civil sanctions. If a non-resident alien sold such meat to a resident alien, neither of them committed an infraction, for neither was under the ecclesiastical covenant. This law was ecclesiastical, not civil. No civil penalties were specified. If an alien ate pork, the holiness of the land was not threatened. But ecclesiastical law did restrict what covenant-keeping Israelites could do with meat. This in turn affected market prices, which would have made unclean meat more expensive by reducing its production in Israel.

Prices were affected in Israel by the dietary laws, but there is no indication that these laws applied to resident aliens, other than the general prohibition of eating blood (Lev. 17:13), which was a Noachic law (Gen. 9:4) that is still in force (Acts 15:20, 29). This would explain why there were herds of pigs in Jesus' time (Matt. 8:30–32). Israelites could not lawfully produce unclean meat commercially, but resident aliens could. Resident aliens had faced a major problem when the jubilee law was enforced (which may have been never) in pre-exilic times: they could not buy permanent ownership of rural land. When enforced, this law would have tended to eliminate the permanent commercialization of unclean animals. The jubilee law surely would have made the development of permanent herds of such beasts unlikely, for the resident alien could not have counted on access to rural land after the jubilee. Only in the post-exilic era, when resident aliens at the time of Israel's return gained lawful permanent access to the land (Ezek. 47:21–23),[17] would such herds have become more likely.

17. Gary North, *Restoration and Dominion: An Economic Commentary on the Prophets* (Dallas, Georgia: Point Five Press, 2012), ch. 22.

35

TITHES OF CELEBRATION

Thou shalt truly tithe all the increase of thy seed, that the field bringeth forth year by year. And thou shalt eat before the Lord *thy God, in the place which he shall choose to place his name there, the tithe of thy corn, of thy wine, and of thine oil, and the firstlings of thy herds and of thy flocks; that thou mayest learn to fear the* Lord *thy God always. And if the way be too long for thee, so that thou art not able to carry it; or if the place be too far from thee, which the* Lord *thy God shall choose to set his name there, when the* Lord *thy God hath blessed thee: Then shalt thou turn it into money, and bind up the money in thine hand, and shalt go unto the place which the* Lord *thy God shall choose: And thou shalt bestow that money for whatsoever thy soul lusteth after, for oxen, or for sheep, or for wine, or for strong drink, or for whatsoever thy soul desireth: and thou shalt eat there before the* Lord *thy God, and thou shalt rejoice, thou, and thine household, And the Levite that is within thy gates; thou shalt not forsake him; for he hath no part nor inheritance with thee. At the end of three years thou shalt bring forth all the tithe of thine increase the same year, and shalt lay it up within thy gates: And the Levite, (be cause he hath no part nor inheritance with thee,) and the stranger, and the fatherless, and the widow, which are within thy gates, shall come, and shall eat and be satisfied; that the* Lord *thy God may bless thee in all the work of thine hand which thou doest.*

DEUTERONOMY 14:22–29

The theocentric focus of this law is stated in the text: "that thou mayest learn to fear the Lord thy God always" (v. 23). The context of this chapter is holiness. "For thou art an holy people unto the Lord thy God, and the Lord hath chosen thee to be a peculiar people unto himself, above all the nations that are upon the earth" (Deut. 14:2). This separated aspect of Israel was an aspect of boundaries: point three of the biblical covenant.[1]

1. Gary North, *Boundaries and Dominion: An Economic Commentary on Leviticus*, 2nd ed. (Dallas, Georgia: Point Five Press, [1994] 2012).

I have quoted the entire passage because there could be confusion if it is not seen as a unit. There is already sufficient confusion when it *is* seen as a unit. Sorting out the implications of Israel's system of tithes is a difficult process, as we shall see.

A. National and Local Festivals

Men fear nature, especially in agricultural societies. They seek ways to reduce this fear. "Save for a rainy day," men are told. They trust in our own devices. God told Israel that under His covenant, there would be plenty of sunny days ahead for covenant-keepers. He would provide the capital necessary to fund their celebrations. *The discipline of tithing was designed to acknowledge their fear of God and reduce their fear of nature and history*. The tithes of celebration were especially useful in this regard. They were a form of holy wastefulness. This wastefulness included the consumption of intoxicating liquors.[2] It was "eat, drink, and be merry, for tomorrow we live."

The initial tithe mentioned in this text was to be consumed by families and Levites at a central location (vv. 22–23). *The central feasts were not tribal affairs*. They were familistic, ecclesiastical, and national. Was this feast to be funded by a second tithe in addition to what was owed yearly to the Levites? The text indicates that it was. This tithe was used to fund the family's expenses at one of the three annual festivals, presumably Booths ("Tabernacles"), the post-harvest feast.

There was a second tithe of celebration: a third-year tithe (v. 28). This festival took place locally. Levites were invited, but so were strangers, widows, and orphans (v. 29). The presence of strangers indicates that this was not an ecclesiastical festival. Was it civil? Or was it something else entirely? Until we know what agency enforced it—which the text does not say—we cannot be sure.

These tithes were imposed by God. If the nation obeyed Him and paid them, He promised to bless them (v. 29). The question is: Were these civil taxes? God did not threaten to impose negative corporate sanctions on Israel if the state refused to impose penalties for any one's failure to tithe and participate in the festivals. Who, then, was the victim of a crime? For this to have been a matter of civil government, the invited attendees would have had to possess a lawful civil claim on other people's wealth. Not to have brought one's tithe to the festival would have been a matter of theft. There would have been

2. See Appendix G: "Strong Drink."

some system of state-imposed restitution available to the victims. But the primary victims were the families that owed God the money. The lion's share of these expenditures was to be consumed by the actual wealth producers. The judicial problem here is to identify the earthly victims who could lawfully bring a lawsuit against the non-tithers. If these victims were widows, strangers, and orphans in general, how could they prove damages in particular? If this was impossible, then on what judicial basis could the state have acted on their behalf to collect from non-tithers in general in order to allocate to specific claimants?

This law stated that a tithe on the land was to be eaten in a central city (v. 24). All land-owning and land-leasing Israelites were required to journey to Jerusalem, presumably at the post-harvest feast of Booths. "Speak unto the children of Israel, saying, The fifteenth day of this seventh month shall be the feast of tabernacles for seven days unto the LORD" (Lev. 23:34). They were to celebrate together. They had to bring a tithe of their crops, which they would consume at the festival. To avoid carrying heavy crops to a distant city, and also to allow them to eat other crops brought in from other regions, they were allowed to sell their crops in their home city and buy whatever they wanted in Jerusalem.

This celebration was to serve as a reminder that their wealth did not depend on their efforts alone. This additional tithe might other wise have been invested, but it had to be consumed. Men were asked to place their faith in God more than in thrift. The celebration declared: "There's a lot more where this came from!"

This was a tithe on the increase of rural land, as were all of the tithes in Israel. The annual tithe went to the Levites to compensate them for not being allowed to own rural land. It was their inheritance (Num. 18:21). The tithe was not left in the hands of the people who had produced it. I call the annual Levitical tithe the first tithe, following rabbinic tradition. It was Levi's inheritance.

In contrast was the second tithe: the tithe of national celebration. While the Levite had to be invited by land-owning families to celebrate (v. 27), he was not entitled to all of it or even the bulk of it. This was not the case in the first tithe. Rabbis have concluded that this was a second tithe.[3] I agree with this assessment.

3. Herbert Danby, note to Maaser Sheni ("Second Tithe"), which is a section of the First Division, *Zeraim* ("Seeds"), *The Mishnah* (New York: Oxford University Press, [1933] 1987), p. 73n.

The first tithe was uniquely the possession of the Levites. It was therefore a matter of property rights. It was enforceable by civil courts.

B. The First Tithe

This was the tithe owed to the Levites as the tribe without an inheritance in land. "But the tithes of the children of Israel, which they offer as an heave offering unto the LORD, I have given to the Levites to inherit: therefore I have said unto them, Among the children of Israel they shall have no inheritance" (Num. 18:24). It was owed to them because they had no landed inheritance in rural areas. Their legal claim on the income of others was based on their lack of any original claim on the land. All net income in the land, except for the income of priests and Levites when they serving the Lord in ecclesiastical callings, was subjected to the first tithe.[4]

The seventh year was a year of simultaneous debt release throughout the land (Deut. 15).[5] In that year, the land was to lie fallow (Lev. 25:4–5).[6] A tithe was owed on whatever grew of its own accord and was harvested. It was owed on new animals born during the year. It was owed by those who derived income from sources other than agriculture.

Any attempt to explain the tithes of celebration as substitutes for the first tithe is an argument in favor of the expropriation of the Levites' lawful inheritance. They had no inheritance in land, but they had a substitute inheritance: the tithe. To argue that these other tithes were substitutes is to argue that the Levites were disinherited by this law. They would have had to forfeit their income in order to make celebrations possible for land owners. Clearly, a tithe of celebration was an additional tithe. The questions are: Who had to pay it? Who enforced it?

C. The Second Tithe

The second tithe was a tithe solely on agricultural output. The text is clear on this. "Thou shalt truly tithe all the increase of thy seed, that the field bringeth forth year by year. And thou shalt eat before the LORD thy God, in the place which he shall choose to place his name there, the tithe of thy corn, of thy wine, and of thine oil, and the first-

4. Gary North, *Sanctions and Dominion: An Economic Commentary on Numbers*, 2nd ed. (Dallas, Georgia: [1997] 2012), ch. 10.

5. Chapter 36.

6. North, *Boundaries and Dominion*, ch. 23.

lings of thy herds and of thy flocks . . .” (vv. 22–23). Those who lived in cities did not pay it. All income not derived from agriculture was exempt. Agricultural land owners paid the second tithe in six out of seven years.

The second tithe had to be consumed in the central city of worship. This is why the prohibition in Deuteronomy 12:17–18 against eating the tithe in one’s own gates has to refer to the national tithe of celebration: “Thou mayest not eat within thy gates the tithe of thy corn, or of thy wine, or of thy oil, or the firstlings of thy herds or of thy flock, nor any of thy vows which thou vowest, nor thy freewill offerings, or heave offering of thine hand: But thou must eat them before the LORD thy God in the place which the LORD thy God shall choose, thou, and thy son, and thy daughter, and thy manservant, and thy maidservant, and the Levite that is within thy gates: and thou shalt rejoice before the LORD thy God in all that thou puttest thine hands unto.”

If the central city was too far away for a family to carry the tithed goods, the family could sell the goods locally for money. This money had to be spent on food and drink at the celebration (v. 25). The rabbis concluded that these agricultural goods could be redeemed lawfully only by an added payment of one-fifth to the Levites.[7] This rule is not found this text. The rabbis appealed to what appear to be similar texts, such as this one: “And all the tithe of the land, whether of the seed of the land, or of the fruit of the tree, is the LORD’s: it is holy unto the LORD. And if a man will at all redeem ought of his tithes, he shall add thereto the fifth part thereof” (Lev. 27:30–31). The rabbis were incorrect. The law in Leviticus governed an item owed to God, such as an animal, that the family wanted to keep. For the privilege of buying back what was God’s, the family paid a 20% premium to the Levite. This was money paid in lieu of the Levites’ receiving the designated commodity. This was not the situation with the second tithe. There was no element of redemption in this tithe. This tithe was under the authority of the family, not the Levite. The family was not redeeming something that belonged to God. It was merely changing the form in which the tithe would be carried to Jerusalem.

The Levites had a claim to part of the second tithe: participation in meals. Strangers, widows, and orphans did not.

When widely obeyed, this law would have led to an increase in the demand for money locally at the time of the national festival. The de-

7. Danby, *op. cit.*, p. 73.

mand for money would have increased at a higher rate in regions farther away from the central city, because of the higher transportation costs. The price of agricultural goods would have been lower than in Jerusalem in these distant areas, which is another way of saying that there was an increased demand for money locally. At the same time, demand for agricultural goods would have increased in the central city because travelers brought their money into the city to buy the food consumed during the celebration: "More money chasing fewer goods."

The fall in the price of agricultural goods in the outlying regions and the parallel rise in the money price of such goods in the central city would have produced profit opportunities for specialists in agricultural transportation. They would have been able to buy goods in the distant regions in order to move them to the central city and sell them to the attendees. They would have "bought low and sold high." Moving goods from places where they are in low demand to a place where they are in high demand is an important market service. It would have been performed by specialists. Families would have estimated which was more profitable to them: carrying the bulky goods to Jerusalem vs. paying higher prices for them there.

D. The Third Tithe

This tithe was long ago called the third tithe. Tobit, written in the third century before Christ, referred to it.

> But I alone went often to Jerusalem for the feasts, as it is ordained for all Israel by an everlasting decree. Taking the first fruits and the tithes of my produce and the first shearings, I would give these to the priests, the sons of Aaron, at the altar. Of all my produce I would give a tenth to the sons of Levi who ministered at Jerusalem; a second tenth I would sell, and I would go and spend the proceeds each year at Jerusalem; the third tenth I would give to those to whom it was my duty, as Deborah my father's mother had commanded me, for I was left an orphan by my father (Tobit 1:6–8; New Revised Standard Version).

Josephus, in his *Antiquities of the Jews*, written late in the first century A.D., wrote this:

> Besides those two tithes, which I have already said you are to pay every year, the one for the Levites, the other for the festivals, you are to bring every third year a third tithe to be distributed to those that want; to women also that are widows, and to children that are orphans. But as to the ripe fruits, let them carry that which is ripe first of all into the temple; and

> when they have blessed God for that land which bare them, and which he had given them for a possession, when they have also offered those sacrifices which the law has commanded them to bring, let them give the first-fruits to the priests (IV:VIII:22–23; Whiston translation).

Nevertheless, Jewish commentators have regarded the second and third tithes as one.[8] Their interpretation is incorrect. There was a third tithe. It was different in at least two ways from the second tithe. First, the celebration was held locally. Second, non-citizens in the community were invited in to celebrate, in addition to Levites. "At the end of three years thou shalt bring forth all the tithe of thine increase the same year, and shalt lay it up within thy gates: And the Levite, (because he hath no part nor inheritance with thee,) and the stranger, and the fatherless, and the widow, which are within thy gates, shall come, and shall eat and be satisfied; that the LORD thy God may bless thee in all the work of thine hand which thou doest" (vv. 28–29). This was a tithe of celebration, but it was communal rather than national. *It was a tithe for the sake of the judicially dispossessed*.

There may have been a third distinction having to do with the tax base: a tithe on any increase, not just agricultural. This depends on the meaning of this verse: "At the end of three years thou shalt bring forth all the tithe of thine increase the same year, and shalt lay it up within thy gates" (v. 28). If we interpret these words as governed by the context of the second tithe, then this was a substitute for the second tithe. But the substitution clearly was not strict. The festival was held locally. Local residents other than Levites were invited. Town residents were likely to be members of the same tribe as the rural land owners who lived in the surrounding area. I regard this celebration as tribal. It was not national. The question arises: Did the third tithe apply to all income? If we see this tithe as primarily tribal, and if we also see the cities as part of the tribes' inheritance, then the third tithe may have been required on all forms of net income. On the other hand, if this is interpreted within the context of the introductory verses, it applied only to agriculture.

This may seem like a small matter, but it is central to understanding welfare economics from the biblical perspective. If the tithes of celebration were tithes exclusively on the land, imposed because the

8. John Gill, *An Exposition of the Old Testament*, 4 vols. (London: Collingridge, [1763] 1852), I, p. 745. Gill had greater knowledge of the primary sources of early Judaism than any other Christian Bible commentator. His contemporary, John Lightfoot, came close. Alfred Edersheim, a convert from Judaism, knew the sources well, but he not a Bible commentator.

land was not part of the Levites' original inheritance and from which they were excluded by the jubilee law, then the state had a legitimate role in enforcing these tithes. It was a matter of defending the original agreed-upon terms of the allocation of private property at the time of the conquest. But the celebration tithes were consumed mainly by the producers. The Levites had a claim only on a small portion of this wealth. Also, the third tithe went in part to subsidize attendance by non-Levites. On what legal basis did they possess a claim on the income of anyone else? What legal principle undergirded this law, assuming that this law mandated state wealth-redistribution? If the state was authorized to enforce the third tithe on land owners, then the Mosaic law did authorize a form of coercive wealth-redistribution, although extremely small, in this instance.

In the third year, this special tithe of celebration was shared with those residents who were not eligible, apart from adoption, to become citizens in the local tribe. This tithe is generally referred to as the poor tithe, but a prosperous stranger or widow was also to be invited. The rabbinic assumption was that members of these four categories—widows, orphans, strangers, and Levites—would have been poor, but there is no reason to assume that Levites were poor.

The correct classification of these attendees is judicial, not economic. The stranger and the orphan (a minor) were not eligible to serve in the Lord's army. They could therefore not be citizens. The Levite had no inheritance in the land. He could not be a citizen in the tribe in which his city was located unless it was a Levitical city. He served in a separate military unit, one which defended the Ark of the Covenant.[9] The widow, though the head of a household, was not eligible to serve in the army. She was an heir only through her husband and her children when they reached adulthood. She could not hold civil office because she was not under the family authority of a man who was himself eligible to serve in the army and therefore as a judge.[10] While any of these guests at the festival may have been poor, the criterion for being invited to the festival was not their poverty. Rather, it was their lack of judicial standing as citizens. They were not eligible to hold civil office in the local tribe. Thus, to call this third-year tithe a poor tithe is incorrect, although Jewish tradition so labels it. It had to do with the beneficiaries' judicial status, not their economic status.

9. North, *Sanctions and Dominion*, ch. 2:B–C.

10. I conclude that Deborah served as a judge because she was married and not a widow.

E. The Levites' Lawful Inheritance

The Levites had no rural landed inheritance in Israel. The other tribes did. The tithe on the land was the Levites' inheritance. This leads me to a conclusion: *anything that undermined the tithe on the land undermined Levi's inheritance*. If the interpretation of any Mosaic law led to the legalization of an exemption from the first tithe, this interpretation had the economic effect of disinheriting Levi.

If those who enjoyed the fruit of the land could gain a competitive advantage over other land owners by legally refusing to pay the first tithe, then the Levites would be steadily disinherited. If a leaseholder or land owner could legally have retained an extra 10% per year, six years out of seven, using this money to invest in tools, seeds, or whatever, stewardship over the land would have been exercised increasingly by non-tithers. This would have been true in the case of covenant-breaking Israelites as well as covenant-breaking resident aliens.

This leads to a very important conclusion, one which I had not seen before I began interpreting the laws governing the tithes of celebration. There was an implicit clause built into God's original grant of land: *the primary tithe of the land belonged to Levi*. This was Levi's inheritance. This clause guaranteed that *Levi could not be disinherited by covenant-breakers who refused to pay the first tithe*. Be cause the other tribes inherited rural land, Levi inherited the first tithe.

The state enforces contracts. Under the Mosaic covenant prior to the exile, the appropriate civil sanction for refusing to pay tithes on the land must have been the disinheritance of the tithe-protester. This sanction was applied on the basis of Levi's lawful inheritance. It was not a civil enforcement of an ecclesiastical obligation. It was a civil enforcement of Levi's tribal inheritance. *The judicial issue was Levi's inheritance, not the theological commitment of the land's steward*. My conclusion is that the resident alien could lease rural land, but he had to pay the first tithe to the Levites. The original owner could not alienate—literally—Levi's inheritance by leasing his land to an alien. *Levi had an enforceable legal claim on a portion of the output of the nation's rural land*. This means that the civil government enforced the payment of the first tithe. This was not a matter of the state subsidizing the church. It was a matter of lawful inheritance: the enforcement of legal title. *As surely as a family's title to rural land was enforceable by the state, so was the Levites' title to the first tithe*. The Mosaic tithe was therefore different from the New Testament's tithe. The church has no legal claim on the public's income, or even on its members' income. This solves the

judicial problem of the first tithe, but not the many problems of the second and third tithes.

Were the tithes of celebration part of Levi's inheritance? Part of these tithes was. The Levites had to be invited to the festivals. The legal question is this: Could the economic portion of this obligation have been met without the participation of the land's steward in the festival? That is, could he have paid the Levites a portion of these tithes, thereby fulfilling his obligation? The law does not say. We must guess. It is not an easy guess.

The Levites had a right to attend the celebrations, i.e., *participation in the life of the nation*, which included celebrations. Did this mean that the Levites had a right to celebrate in the presence of those who served as the land's stewards? Was there more to their claims beyond money for food? If we answer yes, then the non-Israelite leaseholder or excommunicated Israelite had to attend the celebrations on threat of civil sanctions. What sanctions? The law does not say. Perhaps it was the forcible removal of the leaseholder from the property. If so, this would have been a very costly penalty, at least during Israel's agricultural phase.

Who was authorized to enforce the claims of the Levites? If this law was strictly ecclesiastical, then the Levites had this power: excommunication. This certainly would have been a self-interested enforcement system. The judges would have been the stated beneficiaries of the law. Did they possess this authority to judge in first-tithe cases? They shared this authority. The tithe was owed to them because they were the priestly tribe, and also because they had a legal claim based on their lack of landed inheritance. Both church and state were authorized by God to enforce the first tithe.

Then why not also the second and third tithes, at least with respect to participation by the Levites? There seems to be no good reason not to assume that this was the case. The problem comes with respect to institutionally enforceable claims by the other participants: widows, orphans and strangers. This raises the issue of Israel as a welfare state. Did the Mosaic civil law force one group of residents to finance annual festivals for others? It is not easy to make such a case based on the textual evidence here.

These were feasts to honor God: "that thou mayest learn to fear the LORD thy God always." They were feasts to which Levites had to be invited. Were the feasts somehow exclusively civil and therefore compulsory? Only to the extent that the Levites possessed a civil legal

claim on being invited to attend. At most, the civil character of these festivals, if any, would have authorized the state to enforce a claim on some food and drink—hardly a major expense. The suggestion that the state had the authority to compel attendance at a religious festival is foreign to everything else we know of the Mosaic law. But if the state did possess this authority, we have problems: the resident alien and the excommunicated Israelite. These people were legally able to lease rural land, even though they could not purchase it in pre-exilic Israel. This raises some important judicial issues, which are never discussed by the commentators.

F. Alien Leaseholders

It is clear from the text that the second tithe was a tithe on the produce of the land. This raises the question of the leaseholder. It was legal for an owner to lease his land to another person for up to 49 years—until the jubilee (Lev. 25:10).[11] The question arises: Could this leaseholder have been a resident alien? The Bible does not say. It was legal to lease out the land to another person (Lev. 25:25–28). It was also legal to sell oneself to a resident alien (Lev. 25:47–54).[12] We must discover the answer by means of other principles of biblical law, as well as by their implications. What is said here of a resident alien is also true of an excommunicated Israelite.

Next, was a resident alien or an excommunicant required to pay any tithe of celebration? The text does not say. It would make the expositor's task much easier if it did.

The tithe of celebration was a tithe on the land's produce, year by year. Did the alien or excommunicant have to attend these festivals and spend his tithe? That is, did the state have the right to compel anyone to attend a festival? Clearly, the Levites did not possess ecclesiastical authority when dealing with an alien or an excommunicant. I can see nothing in the Mosaic law to indicate that the state possessed such authority.

Did the state or the church lawfully enforce these tithes? If it was only the church, then the church's threat of excommunication and, as a result, loss of citizenship held no terrors for an uncircumcised resident alien. He was not a citizen. Then what was the meaningful sanction against him if he refused to pay this tithe? Could the state have forced the resident alien to leave the leased land? If so, was he

11. North, *Boundaries and Dominion*, ch. 24.
12. *Ibid.*, ch. 31.

entitled to a refund from the Israelite land owner whom he had paid? That would have placed a heavy burden on the land owner, who had put his money to other uses. Removal from the land was a heavy economic burden on a family that refused to attend a festival. It would have amounted to confiscation of property on a huge scale. On whose behalf? To what victim had the alien owed the tithe? To God by way of Himself, mainly. It does not seem biblical to argue that the state had any jurisdiction over the resident alien in this matter, with the possible exception of paying for a Levite's food and drink, who was owed support based on the original land distribution. Yet even this was unlikely. The Levites' claim was on the first tithe. A man who refused to attend a festival owed nothing to someone else.

My conclusion is that no covenantal agency possessed the authority to enforce attendance or support by a resident alien or excommunicant. This conclusion, however, leads to an unexpected conclusion. If it was lawful for a resident alien or an excommunicant to avoid paying all tithes of celebration, he could operate with a much lower overhead than a covenant-keeping Israelite could. He could spend the money locally or else reinvest it. He would have been able to purchase capital by avoiding the celebrations. Over time, this would have given him a major advantage, as his extra returns com pounded. The non-participating resident alien would have had an advantage over Israelites in bidding for control over the land. This would have tended to transfer stewardship over land to those who were not heirs of the conquest. They could have leased the land from Israelites, paid a token amount to finance food once a year for a local Levite, and invested the difference. Other things being equal, they would eventually have displaced the Israelites from agriculture. The Israelite land owners would have done well by leasing their land to aliens and excommunicants, so they would not have remained on the land.

Therefore, if the tithe law was not enforced by the state, the celebration tithes would have tended to push (lure) tithe-paying Israelites off their land and into the cities, leaving non-tithing resident aliens and excommunicated Israelites in control of the land. Such people did take control of the land during Israel's exile, but this was understood a curse on Israel. Did the Mosaic law subsidize a result which was similar to the result of the captivity? Was land stewardship distributed in favor of covenant-breakers? This, surely, is an unexpected application of the Mosaic law.

Under such an interpretation, this tithing law was self-defeating.

It was a tithe on agriculture only. Urban Israelites escaped it, and so could resident aliens who leased rural land for farming. Who, then, would pay it? A strange law, indeed!

An alternative to this interpretation is to deny that the resident alien or excommunicant had the right to lease land in Mosaic Israel, precisely because he could not be effectively pressured ecclesiastically to celebrate in Jerusalem. If any such a prohibition on land ownership had been enforced, there would have been costs imposed on Israel's economy. Owners would have received lower bids for leasing their land, since aliens and excommunicated Israelites would not have been allowed to bid. The land would not have been used by the most efficient producers. Of course, the tithes of celebration were not imposed for short-term efficiency's sake.

The problem here is that a covenant-keeping resident alien would have been discriminated against by such a prohibition. Why shouldn't he have been allowed to act as a steward of the land? On what legal grounds could he have been excluded? Wasn't one law in Israel to govern all men (Ex. 12:49)?[13] What was the covenantal basis of such an exception? Where was the justice of such an exclusion? The fact that some resident aliens might not pay the tithes of celebration was not much of a reason to exclude aliens from leasing agricultural land.

G. Who Enforced the Third-Year Tithe?

The third tithe confuses things even more. Others besides Levites were to be invited in. Did the land owner owe them a place at his table, on threat of civil sanctions? Was the civil government the enforcing agent? If it was, then we have here an example of the welfare state in action. Unlike the Levites, these guests had no legal claim based on the original inheritance. If the state lawfully forced a recalcitrant land owner to invite them in, then they were not guests. They were welfare state clients. They were beneficiaries of state coercion. Did God mandate such a system in His law?

Then there is the question of who was required to pay. Was it every local Israelite or just local land users? On what legal basis would landless people in a town have owed the guests anything? Not by a distinction between original landed inheritance and the absence thereof. Urban land had not been part of the original inheritance that was excluded from the Levites. Levites lived in towns and could buy

13. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press , 2012), Part 1, *Representation and Dominion* (1985), ch. 14.

property. Were landless urban dwellers required to subsidize other landless urbanites, who had no civil claim on the output of non-rural property? Was this an incipient form of state-funded "bread and circuses" in the Mosaic law?

Well, which is it? How was this law enforced? Here are the four choices. *First*, the state compelled land owners and leaseholders to attend religious festivals on threat of losing their land or some other civil sanction. *Second*, the state compelled land owners and leaseholders to provide free meals for an indeterminate number of strangers during third-year festivals, with double restitution to these unidentified victims if they refused to pay. *Third*, because the state could not legally compel payment of celebration tithes, it prohibited non-tithing resident aliens and excommunicants from leasing rural land, in order to avoid indirectly subsidizing non-tithers. *Fourth*, the state had no authority in this area; instead, the Levites lawfully enforced the celebration tithe laws. But because the Levites had this exclusively ecclesiastical authority, they had no way of enforcing these laws on resident aliens and excommunicants, i.e., they had no meaningful sanctions to impose. Therefore, because no covenantal institution possessed effective negative sanctions in this area, non-paying resident aliens and excommunicants would have gained a competitive advantage in agriculture and would have steadily displaced paying Israelites from the land. Because non-tithers would progressively dominate the land, and urban Israelites were not required to pay, this law had to become a dead letter. It was inherently unenforceable. If so, then why did God announce it?

Let us review the options in greater detail. Did the state impose negative sanctions for non-attendance? If so, this law violated the biblical legal principle of victim's rights.[14] Who was the victim of a refusal to attend? To whom did the criminal owe restitution? To himself? This makes no sense.

Did the state compel wealth-redistribution? The feasts were by invitation only. In this sense, this law was like the gleaning law (Deut. 24:19–22).[15] Those with assets—land owners—were required by God to invite others to share their wealth. But this was not a civil law. No bureaucrats provided the land owners with lists of those who had to be invited. Then who were the identifiable victims? Which uninvited

14. Gary North, *Victim's Rights: The Biblical View of Civil Justice* (Tyler, Texas: Institute for Christian Economics, 1990).

15. Chapter 62.

strangers had a legal claim on which land owner's hospitality? Which widows? Which orphans? How did the judges allocate the percentage owed by land users to specific uninvited victims? How would such assessments have been determined without creating an arbitrary judicial system? This view of state power is so far removed from the Mosaic law that it, too, makes no sense.

Did the state prohibit resident aliens and excommunicants from leasing land—not just nonpaying ones, but all of them? To allow only paying ones to lease land would have meant that the state had the power to compel attendance by removing nonpaying ones from the land. We are back to the first choice: state compulsion. So, did biblical law discriminate, on the basis of ecclesiastical membership, against would-be farmers? If so, Israel was not merely a theocracy; it was an ecclesiocracy. But the Mosaic law indicates that Israel was not an ecclesiocracy. Is this law an exception? This is possible, but I am unwilling to take this huge exegetical step. Surely such a view of this law's implications violates the principle of the rule of law.

This leaves one final choice: this law was institutionally unenforceable. We must therefore accept its economic implication: *non-tithers would have possessed a competitive advantage in farming*. This would have moved non-tithers onto the land and tithers into the cities, where they would no longer have been required to pay celebration tithes.

H. Old Wineskins

Built into the Mosaic land laws were at least two self-destruct clauses. This law was one of them. The other one was the jubilee land law. The jubilee law mandated that rural land be returned to the heirs of the conquest every half century. A growing population—one of God's promises to Israel for obeying His law—meant ever-smaller parcels of land. This in turn meant a declining share of family income derived from agricultural output. This tithe law was a parallel law. *Over time, the covenantal faithfulness of Israel would have reduced the value of any tithe on income from land*. As time went by, no family could count on much from its landed inheritance. Meanwhile, the costs of celebrating would have gone up. The larger the population, the more expensive festival rent rates in Jerusalem would be.

This law pointed ahead to a day when the old wineskins of the Mosaic land laws would be broken by the new wine of population growth. *The Mosaic land laws were inherently anti-rural. They subsidized urbanization*. This is not surprising. Biblical eschatology points to a

city: Zion, the city of God (Zech. 8; Rev. 21; 22). *Israel's land laws were designed to push Israelites off the land and into the cities. Eventually, these laws would have pushed them out of the Promised Land*. When enforced, the jubilee inheritance law would have promoted emigration out of Israel. It would have pushed men into occupations that were connected to foreign trade rather than domestic agriculture. The rural land inheritance law therefore promoted contact with foreigners. This was an aspect of the dominion covenant. It was to serve as a means of evangelism. The story of Israel, her laws, and her God was to spread abroad (Deut. 4:5–8).

The landed inheritance of Canaan was temporary. Men who paid careful attention to the Mosaic law would have seen that Israel was like Eden: a temporary training camp for worldwide dominion. *The land of Israel was both a boot camp and headquarters*. The diaspora was an inescapable concept for Israel. Either the nation would rebel against God, avoid population growth, and be carried into captivity, or else it would obey God, grow, and extend God's kingdom across the face of the earth. In either case, they could not remain bottled up inside Israel's geographical boundaries. Israel chose the first approach, twice: pre-exilic and post-crucifixion.

In between the conquest and the Babylonian captivity, what about the implicit subsidy to nonpaying resident aliens and excommunicants? Other things being equal, they would have inherited rural land—not as owners but as actual users. But the per capita value of this landed inheritance would have fallen steadily in times of national obedience: ever-smaller plots. Besides, other things are not equal. This law was given "that the LORD thy God may bless thee in all the work of thine hand which thou doest." Obedience to God would have brought national blessings. Even with growing festival nonparticipation in the countryside, the urban faithful would have continued to celebrate voluntarily with their growing nonagricultural incomes, leaving the nonparticipants to fall behind economically in the country side. *The push of God's kingdom in history is toward urban life*.

I. New Testament Annulment and Restoration

The three temple-related annual festivals were aspects of Israel's land laws and seed laws.[16] The national festivals maintained geographical and ritual unity among the geographically dispersed tribes. These

16. On land laws and seed laws, see Appendix J.

mandated journeys to a central location reminded the tribes of the centrality of the temple-altar, the Ark of the Covenant, the tablets of the law, and the geographically dispersed tribe of Levites. These celebrations were times of common confession.

There is no New Testament indication that any comparable national ceremony is to bind New Testament churches or residents of any covenanted Christian nation. The national feasts were tied explicitly to Jerusalem and the tabernacle; nothing like this geographical centrality exists under the New Covenant. The New Covenant substitutes the sacraments and decentralized worship for the temple festivals.

The third-year tithe of local celebration was not associated with the temple. It was a tribal affair. It involved a voluntary tax on the land and, if the inclusive language is taken literally, also on town residents. Those who were the contractual stewards of the land were required by God to pay both of these tithes, but no agency enforced this. One cost of leasing the land was participation in the festivals. But no one was forced by threat of formal sanctions to bear this cost.

Judicially, the second and third tithes were Mosaic land laws. The third tithe was also a seed law, having to do with the tribes. It required a communal celebration in local cities. These tithe laws were tied judicially to the conquest of Canaan. They were annulled when Israel's unique status as owner of the Promised Land ceased in A.D. 70. Israel's kingdom inheritance was transferred to the church, as Jesus had predicted (Matt. 21:43). Therefore, like the other land laws and seed laws, these two tithes did not extend into the New Covenant. Nevertheless, as examples of communal celebration, they serve us well. Christmas is a common time of communal celebration in the West. The American tradition of feeding the homeless a turkey dinner at Christmas bears a faint trace of the old Mosaic practice. But these common meals, while funded by the higher classes, have rarely been attended by them. There is no social mixing today of property owners, widows, orphans, and strangers. Something socially healing has been lost with the annulment of the older festival pattern.

Medieval Catholicism annually celebrated over one hundred holy days (holidays).[17] Spain had 150 saints days and festival days as late as 1620.[18] Beginning with Luther's recommendation, Protestants drasti-

17. Christopher Hill, *Society and Puritanism in Pre-Revolutionary England*, 2nd ed. (New York: Schocken, 1967), p. 146.

18. *Ibid.*, p. 148.

cally reduced the number of such holidays.[19] This led to an increased number of work days in Protestant nations. It also led to a sabbatarian rest pattern of one day in seven. This development has very nearly destroyed the idea of a church calendar. Liturgical churches that are closer to the medieval pattern are more likely to pay attention to the church calendar; the Presbyterian and Anabaptist traditions do not. In Puritan Massachusetts in the late seventeenth century, it was illegal to celebrate Christmas. The government assessed a fine for any violation.[20] Religious celebrations are suspect in the Puritan tradition. In some instances today, Christmas and Easter are not celebrated by strict Presbyterians, although this is rare.

With the rise of the trade union movement, the number of paid holidays increased. The number of religious holidays in Protestant nations is still small, usually consisting of Christmas eve and day, and Easter weekend. Christian celebrations today are generally confined to families and local churches. There is no equivalent of Mosaic Israel's compulsory national feast of celebration.

If the second and third tithes were annulled because of the replacement of Israel's covenant by the church, what of the Levitical tithe? It was a tribal entitlement. It was given to Levi in place of rural land. On what legal basis does it survive in the New Testament, since the other dozen tribes lost their landed inheritance? There are no priests who offer lawful sacrifices in the New Covenant.

J. Melchidezek

The tithe that constituted the first tithe is the most theocentric of all the economic laws of the Bible. It places God at the center of creation, i.e., the sovereign agent over creation. From at least the days of Abram to today, this primary tithe has been mandatory. The first mention of the tithe appears in Genesis 14, after Abram had returned from his victorious battle over Chedorlaomer. This took place before God established His covenant with Abram. This was a pre-circumcision practice. "And Melchizedek king of Salem brought forth bread and wine: and he was the priest of the most high God. And he blessed him, and said, Blessed be Abram of the most high God, possessor of heaven and earth: And blessed be the most high God, which hath

19. *Ibid.*, pp. 149–51.

20. May 11, 1659: Nathaniel B. Shurtleff (ed.), *Records of the Governor and Company of the Massachusetts Bay in New England*, 5 vols. (Boston: William White, Commonwealth Printer, 1853), V, p. 366.

delivered thine enemies into thy hand. And he gave him tithes of all" (Gen. 14:18–20). Only after Abram paid his tithe to a priest did God establish His covenant with him (Gen. 15).

Melchizedek's announcement was theocentric: "…the most high God, possessor of heaven and earth: And blessed be the most high God, which hath delivered thine enemies into thy hand." To pay a tithe to God's priest was therefore Abram's legal obligation. This was his acknowledgment that God is who Melchizedek said He is. Abram affirmed Melchizedek's confession of faith by paying his tithe to Melchizedek. Abram subordinated himself to God confessionally by subordinating himself economically to the priest who represented God. He confessed a believable confession by affirming the truth of Melchizedek's representative, mediatorial confession in Abram's name and in God's name. His public economic subordination to God's priest validated his personal confession. He put his money where his mouth was. Only after he did this did God establish His covenant with him. In short, *the historical basis of the Abrahamic covenant was Abram's prior confession through economic subordination to God's ordained priest*. The meaning of Abram's payment should be clear: *confessing man's tithe is owed to the church*.[21] This has never been clear to the church. Because of its confusion on this matter, the church of Jesus Christ has taken what amounts to a vow of poverty, thereby becoming a mendicant order: begging for Jesus.[22]

There can be no question that such ecclesiastical positioning calls into question the believability of the church's confession regarding the sovereignty of God in history. It may mimic Melchizedek's words, but it does not mimic Melchizedek's authority. Yet the writer of the Epistle to the Hebrews affirmed that Jesus is the heir of Melchizedek, whose office is greater than any Levitical priest's:

> For this Melchisedec, king of Salem, priest of the most high God, who met Abraham returning from the slaughter of the kings, and blessed him; To whom also Abraham gave a tenth part of all; first being by interpretation King of righteousness, and after that also King of Salem, which is, King of peace; Without father, without mother, without descent, having neither beginning of days, nor end of life; but made like unto the Son of God; abideth a priest continually. Now consider how great this man was, unto whom even the patriarch Abraham gave the tenth of the spoils. And verily

21. Gary North, *The Covenantal Tithe* (Powder Springs, Georgia: American Vision, 2011). Cf. Gary North, *Tithing and the Church* (Tyler, Texas: Institute for Christian Economics, 1994).

22. North, *Tithing and the Church*, ch. 4.

> they that are of the sons of Levi, who receive the office of the priesthood, have a commandment to take tithes of the people according to the law, that is, of their brethren, though they come out of the loins of Abraham: But he whose descent is not counted from them received tithes of Abraham, and blessed him that had the promises. And without all contradiction the less is blessed of the better (Heb. 7:1–7).

The very office of Jesus as high priest comes from His inheritance of Melchizedek's office, who was superior to Abraham. This argument places the church as the legitimate successor and heir of Mosaic Israel, for the church traces its covenantal claim on the inheritance to Melchizedek, who was superior to Abraham. Yet the modern church ignores all this, for it refuses to lay judicial claim to a tenth of the income of its members. *In refusing to assert its rightful claim to the tithe, the church publicly denies its authority as heir of Melchizedek through Jesus Christ*. It compromises its confession of Melchizedek's confession: "Blessed be Abram of the most high God, possessor of heaven and earth: And blessed be the most high God, which hath delivered thine enemies into thy hand." The modern church refuses to affirm this confession, with its declaration that God brings predictable sanctions in history. It therefore refuses to impose a negative sanction on those members who refuse to tithe to the church: the revocation of *voting* membership.[23] *Communicant members who refuse to place themselves* ***under*** *ecclesiastical authority should not be entitled to impose ecclesiastical authority* ***over*** *other members*. Or, in the familiar slogan, "he who pays the piper calls the tune." Non-tithing members should not call the judicial tunes, including the election of those officers in charge of allocating church funds. But modern churches have ignored this principle, leading to their capture by theological liberals, who love to call the tunes with other people's money, an outlook they have in common with political liberals, who use tax funds rather than church funds to call the tunes.

Conclusion

Land owners were told by God to voluntarily set aside an extra 10% of their net agricultural income in six years out of seven in order to fund the national tithes of celebration. In the sabbatical year, land owners still had to attend feasts in Jerusalem, but they did not have to invite in strangers, widows, and Levites. Participation in these national feasts was to be financed by a special tithe on all rural land.

23. *Ibid*., ch. 3.

Given the expenses and burdens of travel, it is likely that the feast of Booths served as the national tithe-feast. In the third year, however, rural land-owning families were required to allocate an additional tithe for a local celebration, inviting widows, orphans, strangers, and Levites to attend.

At these feasts, the head of a rural family was not to conserve funds. The family and its guests were required to consume the entire tithe. Nothing was to be held back. This was God's celebration. This freedom from economic restraints was manifested by the authorization of intoxicating drink as part of the national celebrations. This law countered excessive future-orientation. The future is in God's hands, just as the present is. The present has its lawful rewards. To "save for a rainy day" was legitimate in Mosaic Israel; on the other hand, never to celebrate God's sunny days was illegitimate. As an ethical model, the Mosaic tithes of celebration are valid in the New Covenant. They are not ecclesiastically mandatory, however.

The first tithe was Levi's inheritance in lieu of rural land. It was imposed on all rural land-generated income in Israel. This inheritance was enforceable in a civil court. It was a tribal inheritance, not an ecclesiastical inheritance as such.[24] The civil sanction was not specified. Loss of citizenship was one possibility. Actual confiscation is another. The tithe today is not connected to the conquest generation's distribution of land. It is therefore no longer a civil matter.

What of the second and third tithes on the land? They were neither civil nor ecclesiastically enforced, with the possible exception of payment for Levites' festival meals.

Because of the economic burden of these laws, nonpaying resident aliens and excommunicants would have gained control over rural agricultural land, other things being equal. God's grace, however, does not make things equal. He promised to bless the nation if they obeyed. If rural renters had refused to pay but urban dwellers did pay, God would have honored the urban faithful. This is why there are limits to humanistic economic analysis. The economists do not see the covenantal structure of economics, including growth theory.

The value of the land's output in a family's budget would have fallen over time in a growing population. This meant that there would come a day when these festival laws would be annulled by God in or-

24. The New Covenant tithe is a Melchizedekan tithe, not a Levitical tithe (Heb. 7). This is why the state cannot legitimately enforce it. It is the church's moral claim on God's covenant people, not a legal claim enforceable in a civil court.

der to meet the new environment: urban life, emigration, and falling income from small-scale agriculture. The celebration tithe laws were old wineskins: designed by God to be broken, either by apostate rural non-tithers or by successful covenant-keepers who went abroad and did not return to the annual festivals except on rare occasions.

The first tithe extends into the New Covenant by way of Melchizedek. Jesus Christ is the high priest in the order of Melchizedek. Tithes are paid to Him by means of payments to His institutional church.

36

THE CHARITABLE LOAN

At the end of every seven years thou shalt make a release. And this is the manner of the release: Every creditor that lendeth ought unto his neighbour shall release it; he shall not exact it of his neighbour, or of his brother; because it is called the LORD*'s release. Of a foreigner thou mayest exact it again: but that which is thine with thy brother thine hand shall release; Save when there shall be no poor among you; for the* LORD *shall greatly bless thee in the land which the* LORD *thy God giveth thee for an inheritance to possess it. Only if thou carefully hearken unto the voice of the* LORD *thy God, to observe to do all these commandments which I command thee this day.*

DEUTERONOMY 15:1–5

The theocentric focus of this law is God's sabbath: point four of the biblical covenant. Its context is law in general: "to observe to do all these commandments which I command thee this day." This is ethics: point three.

A. Debt Relief

There had to be scheduled periods of rest in the Promised Land: for the land itself, for agricultural workers, for domesticated farm animals, and for at least one form of debt: the morally mandatory, non-interest-bearing charitable loan. God had rested on the seventh day; Israel was to rest in the seventh year. The law of the sabbath was announced in the fourth commandment. This placed it under point four of the biblical covenant: oath/sanctions.[1]

The release from work was a positive sanction. So was the release from debt. "Forgive us our debts" (Matt. 6:12) remains a valid prayer.[2]

1. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 2, *Decalogue and Dominion* (1986), ch. 24.

2. Gary North, *Priorities and Dominion: An Economic Commentary on Matthew*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 12.

This release from debt was called the Lord's release. The Hebrew word here translated as "release," *shawmat*, means "rest" or "throw down." The mandatory *resting of the land* in the seventh year is related grammatically to the *release from debt*: "But the seventh year thou shalt let it rest and lie still; that the poor of thy people may eat: and what they leave the beasts of the field shall eat. In like manner thou shalt deal with thy vineyard, and with thy oliveyard" (Ex. 23:11).[3]

God's blessings are once again said to be tied to national obedience. *Israel's inheritance of the land was conditional.* Law, positive sanctions, and inheritance were a covenantal unit. This means that law, negative sanctions, and disinheritance were equally a covenantal unit. The positive sanction of rest was explicitly tied to the maintenance of the national inheritance. This rest included rest from debt. This was a land law: "for the LORD shall greatly bless thee in the land which the LORD thy God giveth thee for an inheritance to possess it" (v. 4b). It was tied to Israel's system of covenantal release.

B. Loans to the Poor

There was an annulment provision in this law of debt release. It would not apply when there were no longer poor people in the land (v. 4a). This should be regarded as hyperbolic language. "For the poor shall never cease out of the land: therefore I command thee, saying, Thou shalt open thine hand wide unto thy brother, to thy poor, and to thy needy, in thy land" (v. 11). But the fact remains that in some unique way, this law was connected judicially to the presence of poor people in the land. This exclusionary clause should alert us to the possibility that this law was not universal in scope or application. It was tied in some way to both the poor and the land.

Moses explained the application of this law. It was explicitly related to poor people. "If there be among you a poor man of one of thy brethren within any of thy gates in thy land which the LORD thy God giveth thee, thou shalt not harden thine heart, nor shut thine hand from thy poor brother: But thou shalt open thine hand wide unto him, and shalt surely lend him sufficient for his need, in that which he wanteth" (Deut. 15:7–8). There was a strong element of moral obligation here.[4]

What did the word mean, "wanteth"? The same Hebrew word, *khawsare*, is used to describe God's care for them in the wilderness.

3. North, *Authority and Dominion*, Part 3, *Tools of Dominion* (1990), ch. 53.
4. *Ibid.*, ch. 49.

They lacked nothing. "Yea, forty years didst thou sustain them in the wilderness, so that they **lacked nothing**; their clothes waxed not old, and their feet swelled not" (Neh. 9:21). Yet the exodus generation had complained continually that they lacked everything good which they had possessed in Egypt. In response, God kept them wandering in the wilderness. He disinherited that generation. So, the idea of "want" in this context is serious poverty, where one's work or life is in danger. Such a lack of basic necessities is not common to covenant-keepers: "The LORD is my shepherd; I shall not want" (Ps. 23:1).

There were sanctions attached to this law because it was a subset of a larger category of biblical laws: charity. "He that giveth unto the poor shall not lack: but he that hideth his eyes shall have many a curse" (Prov. 28:27). These promised negative sanctions were individual. God imposed them directly on individuals, apart from any intermediary covenantal authorities. *He did not threaten the community with negative corporate sanctions. Thus, these were not laws governing covenantal institutions.* These laws were neither civil nor ecclesiastical. There is no suggestion that any covenantal institution had the either the right or the obligation to threaten formal negative sanctions against individuals who disobeyed this law. The Bible is clear about the presence of these individual sanctions in history. Charity laws were not a subset of the land laws.

The mandated discipline here was self-discipline. The man with money to lend was to consider the plight of the poor man. He was to evaluate the causes of the poor man's poverty. Having determined that the person was not poor because of bad habits, the man with money was to lend generously. If he did, he would be rewarded: a positive sanction. "Beware that there be not a thought in thy wicked heart, saying, The seventh year, the year of release, is at hand; and thine eye be evil against thy poor brother, and thou givest him nought; and he cry unto the LORD against thee, and it be sin unto thee. Thou shalt surely give him, and thine heart shall not be grieved when thou givest unto him: because that for this thing the LORD thy God shall bless thee in all thy works, and in all that thou puttest thine hand unto" (vv. 9–10). Again, it was God, not the state, who would reward the generous lender. This is why this law had nothing to do with civil sanctions. Biblical civil sanctions are exclusively negative. The Bible does not authorize compulsory wealth redistribution.[5]

5. David Chilton, *Productive Christians in an Age of Guilt-Manipulators: A Biblical Response to Ronald J. Sider*, 3rd ed. (Tyler, Texas: Institute for Christian Economics, [1982] 1996).

C. The Israelite Bondservant

After the discussion of morally obligatory lending, the text introduces what appears to be a wholly unrelated topic: the Israelite bond servant. This bondservant was to be released in the seventh year.

> And if thy brother, an Hebrew man, or an Hebrew woman, be sold unto thee, and serve thee six years; then in the seventh year thou shalt let him go free from thee. And when thou sendest him out free from thee, thou shalt not let him go away empty: Thou shalt furnish him liberally out of thy flock, and out of thy floor, and out of thy winepress: of that where with the LORD thy God hath blessed thee thou shalt give unto him. And thou shalt remember that thou wast a bond man in the land of Egypt, and the LORD thy God redeemed thee: therefore I command thee this thing to day (vv. 12–15).

There is something missing here: an explanation of the difference between this kind of Israelite bondservant and the Israelite bondservant described in Leviticus 25:

> And if thy brother that dwelleth by thee be waxen poor, and be sold unto thee; thou shalt not compel him to serve as a bondservant: But as an hired servant, and as a sojourner, he shall be with thee, and shall serve thee unto the year of jubile: And then shall he depart from thee, both he and his children with him, and shall return unto his own family, and unto the possession of his fathers shall he return. For they are my servants, which I brought forth out of the land of Egypt: they shall not be sold as bondmen. Thou shalt not rule over him with rigour; but shalt fear thy God. (Lev. 25:39–43).[6]

Here is an Israelite bondservant who was purchased by another Israelite. He remained a bondservant until the jubilee. This could be as long as 49 years. Yet the text in Deuteronomy 15 insists that the Israelite bondservant be released in the seventh year. How can these two laws be reconciled?

1. A Question of Collateral

The person described in Leviticus 25 was a person with no land to return to. What redeemed him from bondage was the return of his land at the jubilee (Lev. 25:13).[7] Because he had no land in the interim, he could find himself without the means to repay a commercial loan. He defaulted on his loan, and he was then sold into bondage to repay

6. Gary North, *Boundaries and Dominion: An Economic Commentary on Leviticus*, 2nd ed. (Dallas, Georgia: Five Point Press, [1994] 2012), ch. 29.
7. *Ibid.*, ch. 24.

it. The presumption here is that he no longer held title to any land. He was landless until the jubilee. He had no collateral for the loan other than his own labor. So, when he defaulted, he lost his freedom.

The collateral for a loan could be either goods or services. Goods could easily be pledged and transferred at the time of default. Labor services could be transferred, too, but they involved the loss of freedom for a specified period of time. If goods were pledged, their transfer redeemed the loan. But what was the value of a person's labor services? To assess this, there had to be a labor market. There was a market for long-term labor services. We would call it a slave market. An Israelite's enslavement was legally limited; it could not exceed 49 years. This limitation did not apply to foreigners (Lev. 25:44–46).[8] Why not? Because an Israelite's redemption out of bondage was by rural land ownership: part of the original inheritance attained by the conquest generation.[9] When the Israelite bondservant's land was returned to him, he could return to his land. He thereby gained redemption from bondage.

There was another distinguishing factor: the circumstances of a loan. The Israelite who had no land to pledge for a loan was considered a poor risk. He had lost control over his land for some reason. Perhaps he had lost it by having to repay a previous loan. So, the lender wanted security for his loan. He wanted long-term labor services that would command a market price high enough to guarantee his repayment.

2. An Interest-Free Loan

What of the poor man in Deuteronomy 15:12? He was morally entitled to a loan. More than this: he was entitled to an interest-free loan. "If thou lend money to any of my people that is poor by thee, thou shalt not be to him as an usurer, neither shalt thou lay upon him usury" (Ex. 22:25).[10] "And if thy brother be waxen poor, and fallen in decay with thee; then thou shalt relieve him: yea, though he be a stranger [*geyr*], or a sojourner [*to shawb*]; that he may live with thee. Take thou no usury of him, or increase: but fear thy God; that thy brother may live with thee. Thou shalt not give him thy money upon usury, nor lend him thy victuals for increase" (Lev. 25:35–37).[11] A

8. *Ibid.*, ch. 31.

9. A Levite's judicial basis of citizenship was his legal claim on the tithe. He may have owned a home in a city, but this was not the legal basis for his liberation at the jubilee.

10. North, *Authority and Dominion*, ch. 49.

11. *Ibid.*, ch. 29.

poor man had a superior claim on a righteous man's loanable funds. This was not a commercial loan. Commercial loans were legitimate. The non-resident alien [*nokree*] had no claim to an interest-free loan. "Unto a stranger [*nokree*] thou mayest lend upon usury; but unto thy brother thou shalt not lend upon usury" (Deut. 23:20a).[12] But an interest-free loan was morally compulsory in Mosaic Israel in a way that a commercial loan was not.

The poor man who sought an interest-free loan could be asked to pledge his cloak, but it had to be returned to him by evening (Ex. 22:26).[13] This kept him from pledging an asset that was already pledged, but it meant that only a nearby neighbor would lend to him—a person who would know his character and the reasons for his present poverty.

The interest-free loan proved that the borrower was at risk of bondage only until the sabbatical year of release. He was not at risk until the jubilee. The presence of interest proved that he was at risk for a longer period: until the jubilee. The zero-interest loan was morally obligatory on the lender. The interest-bearing loan was not. *The person seeking an interest-bearing commercial loan had no moral claim on the prospective lender*. He was at greater risk in case he defaulted.

In the year of release, the lender was to provide the borrower with capital: "Thou shalt furnish him liberally out of thy flock, and out of thy floor, and out of thy winepress: of that wherewith the LORD thy God hath blessed thee thou shalt give unto him" (Deut. 15:14). "It shall not seem hard unto thee, when thou sendest him away free from thee; for he hath been worth a double hired servant to thee, in serving thee six years: and the LORD thy God shall bless thee in all that thou doest" (v. 18). There was no such obligation on the lender when a long-term Israelite bondservant departed in the jubilee year. He would return to his land empty-handed. But the poor man who defaulted on a charitable loan apparently had land to return to.

I wrote the following in my extended commentary on Leviticus, *Boundaries and Dominion*, chapter 29.

A man's willingness to bear the risk of up to six years of bond service for his failure to repay a loan established the loan as a morally compulsory, zero-interest, charitable loan. Unless the poor borrower was

12. Chapter 57.
13. *Ibid.* , ch. 49.

willing to take this risk, he had no moral claim on the lender. Yet it is clear from the text that Israelites could lawfully be sold into servitude until the next jubilee year. This bondage was a means of debt repayment. So, if servitude of up to 49 years was possible, why did the threat of no more than six years of bondservice judicially identify a morally compulsory charitable loan?

The answer is found in the issue of legal access to the inheritance. A man who was so poor that he was willing to risk bondservice until the next sabbatical year, but who was unwilling to put up his land as collateral, had a moral claim on a zero-interest charitable loan. He had a property to return to. He was poor, but he was obviously not so present-oriented or risk-oriented that he would use his inheritance as collateral. His poverty was temporary. He had an inheritance to return to in the sabbatical year after a period of bondservice. His post-crisis goal was liberty and dominion: self-government. So, he used his own potential servitude as collateral to secure the charitable loan.

The borrower who was willing to use his inheritance as collateral in a business loan, or someone who had already leased out his land until the next jubilee year, was not equally protected by the Mosaic law. He had no moral claim on a zero-interest charitable loan. Either this was a business loan, in which the element of moral obligation was not involved, or else the person was economically incompetent: he had already leased his inheritance, yet he still wanted a loan. For this person, the time limits on bondservice that were offered by the sabbatical year of release were inoperative. He could be placed into bondservice until the next jubilee year.

Access to the inheritance served as the debtor's sanctuary. If he had not leased out his land, or if he had not lost it because he had used it as collateral to secure a non-charity loan that later went bad, he could not be placed in bondservice for longer than six years. God reminded the debtor that retaining possession of his inheritance was very important in God's eyes. Debtors who were willing to place their inheritance at risk to secure a business loan, or who had already leased out their land, were regarded by the Mosaic law as second-class debtors. They had no moral claim on a zero-interest loan; they also did not possess a sanctuary from bondage: they could serve beyond six years, i.e., until the next jubilee trumpet sounded.[14]

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14. North, *Boundaries and Dominion*, ch. 29:A.

What if the man released in the sabbatical year did not want to face the trials of life? In that case, he could choose to remain with the lender. The subsequent passage sets forth the ritual terms of permanent bondservice: the pierced ear (Deut. 15:16–17). This covenantal mark of bondage obligated only him, not his adult heirs. If he came into bondage as a poor man by way of a default on an interest-free charity loan, his adult heirs could not be obligated to stay with him. He took the oath of allegiance in his own name only.

D. Commercial Loans

A failure to recognize the character of this loan as a charitable loan leads to a second error: a failure to recognize the presence of commercial loans in ancient Israel. Combined, these two errors produce a serious historical and analytical error: the perception of Mosaic Israel as a noncommercial society in which the universal phenomenon of interest-producing loans did not exist because of the Mosaic law.

Whenever we see such a line of reasoning, we can be sure that the author has an assumption disguised as a conclusion, namely, that the Mosaic law is inapplicable in today's world. The Mosaic law is thought to be suitable only for an older era, an agricultural era, an era in which such modern economic categories as interest were not operational. This assumption leads to either of two additional errors: (1) the concept of interest is not universal, but is merely an artifact of modern capitalism; or (2) the category of interest is universal, so the Mosaic law is anti-capitalistic.

1. Willingale's View

In a remarkably inaccurate interpretation of the Mosaic economy, A. E. Willingale argued in 1962 that there was no commercial lending in ancient Israel prior to the monarchy. Willingale wrote:

> Loans in Israel were not commercial but charitable, granted not to enable a trader to set up or expand a business but to tide a peasant farmer over a period of poverty. Since the economy remained predominantly agricultural up to the end of the Monarchy, there developed no counterpart to the commercial loan system already existing in Babylonia in 2000 B.C. Hence the legislation contains not mercantile regulations but exhortations to neighborliness.[15]

15. "Debt," *New Bible Dictionary*, 2nd ed. (Wheaton, Illinois: Tyndale House, 1982), pp. 275–76.

Willingale was wrong. There were commercial loans in Israel. He did not recognize that the jubilee year's debt law that governed the indentured servitude of a Hebrew brother (Lev. 25:39–41) had to refer to a commercial loan or a profit-seeking consumer loan that had not been the product of a crisis in the debtor's life. Had it been an interest-free charitable loan, he would have gone free in the sabbatical year. He would not have had to wait for the jubilee year to regain his freedom and return to his family's farm.

Willingale in 1962 faced the problem that faces every Bible-believing theologian today who attempts to comment on biblical issues for which he has no training in the academic discipline involved—in this case, economic theory. There is no body of academic materials available to him that has been written by Bible-believing scholars who have reconstructed their academic disciplines in terms of biblical revelation. This is why Christian reconstruction is necessary, and also why it is hated by those Christian scholars who are unwilling to reconsider their academic specialties and careers in terms of the authority of the Bible.

Willingale was quoted on this matter as an expert by dispensational theologian and pastor Gene A. Getz.[16] Getz then used Willingale's error to prove to his satisfaction—though not mine—that Deuteronomy's economic laws are no longer valid in the New Testament era because the Mosaic Israel was designed for a rural, non-commercial economy. Getz ignored the obvious: Willingale's analysis does not solve the problem of analyzing Israel's economy after the monarchy, which, according to Willingale, was urban and commercial.

Getz wanted to find a New Testament loophole for Deuteronomy 28: the link between national covenantal faithfulness and wealth, and national covenantal rebellion and poverty.[17] "Willingale reminded us that this unique economic setting in Israel 'changes in the New Testament.' Israel now existed in a totally different situation culturally and economically. The Jews had to adapt their laws to a commercial economy."[18] Getz affirmed a discontinuity between the Mosaic economy and the New Testament economy. Even in terms of his own argument, Getz placed this discontinuity a millennium too late. According to Willingale, the Jews would have had to adapt their laws a millennium

16. Gene A. Getz, *A Biblical Theology of Material Possessions* (Chicago: Moody Press, 1990), p. 264.

17. Chapter 68.

18. Getz, *Material Possessions*, p. 265.

before Christ. Getz did not mention this problem for his thesis regarding the New Covenant inapplicability of Deuteronomy 28.

2. Spiritualizing Away God's Law

Getz was a pietist. The theological tradition known as pietism asserts a radical discontinuity between the judicial requirements of the Old Covenant and the New Covenant. The pietist views Christianity as a religion of the heart, not a religion of the marketplace, whether economic or political.[19] Getz sought to undermine the continuing judicial authority of the Mosaic law in both church and state. He spiritualized away its meaning. First, he rejected the Mosaic law's binding authority. Then he invoked a vague and undefined spirit in order to avoid the accusation of being an antinomian. "At the same time, we must not bypass the spirit of these laws."[20] I ask: What spirit? With what negative sanctions for violating the spirit? Getz wanted deliverance from the Mosaic law, yet he also invoked an undefined, toothless version of the law. He spiritualized away the law, yet he also sought to retain biblical ethics. All dispensational theologians produce this sort of exegesis regarding biblical law, as do most non-dispensational theologians. This methodology of *judicial spiritualizing* is a standing testimony against dispensationalism's self-proclaimed hermeneutical principle of exegetical literalism.[21] Yet the dispensationalist does not honor this principle of interpretation. He honors another: "literal whenever convenient." He picks and chooses the passages which he interprets literally, just as all other Bible-believing interpreters do.

The dispensational theologian is a literalist regarding unfulfilled Old Testament prophecies about the Jews or the temple—prophecies

19. See Appendix I.

20. *Ibid.*, p. 266.

21. Perhaps the leading dispensational theologian after the death of Lewis Sperry Chafer was Dallas Seminary's Charles C. Ryrie. In 1965, he wrote: "Therefore, the second aspect of the *sine qua non* of dispensationalism is the matter of plain hermeneutics. The word *literal* is perhaps not so good as either the word *normal* or *plain*, but in any case it is an interpretation that does not spiritualize or allegorize as nondispensational interpretation does. The spiritualizing may be practiced to a lesser or greater degree, but its presence in a system of inter pretation is indicative of a nondispensational approach." Ryrie, *Dispensationalism Today* (Chicago: Moody Press, 1965), pp. 45–46. In his 1995 revision, he backed off. He added these qualifications: "To be sure, literal/historical/grammatical interpretation is not the sole possession or practice of dispensationalists, but the consistent use of it in all areas of biblical interpretation is. This does not preclude or exclude correct understanding of types, illustrations, apocalypses, and other genres within the basic framework of literal interpretation." Ryrie, *Dispensationalism* (Chicago: Moody Press, 1995), p. 40. This transformed his previous unsupported but uncompromising definition of literalism into a muddled, unsupported statement.

that the church for almost two millennia has maintained were fulfilled by the church before A.D. 70 (preterism) or are in the process of being fulfilled by the church. He insists that these prophecies must be fulfilled after the Rapture (pre-tribulationism) or after the Great Tribulation but before the Second Coming (post-tribulationism). Yet he is equally ready to find hidden meanings in the dimensions of the temple, or allegories about Jesus in its stones. He is also ready to spiritualize out of church history the New Testament's application of almost every law in the Old Testament—and, in principle, all of them, including the Ten Commandments.[22] Getz wrote: "Heretofore, we have noted that most of God's promises for being faithful with material possessions relate to eternity and not to this earth."[23] Getz knew exactly what Deuteronomy 28 teaches, and he sought to escape its clear teaching.[24] Here we have one more poorly executed attempt to escape from the Mosaic law and its corporate sanctions in history. In doing so, Getz attempted to strip riches of all covenantal significance—in America, the richest society in history. He also removed from Christians who follow his interpretation any possibility of developing an explicitly biblical economic theory.

He did not tell his readers what his hermeneutical principles were. He did not explain, let alone justify, why he devoted almost his entire book to New Testament passages on property, almost completely ignoring the Old Testament's teachings. I have written thousands of pages of books on the economics of the Pentateuch. By 1990, I had published three volumes: one on Genesis and two on Exodus 1–20. Chilton's *Productive Christians in an Age of Guilt-Manipulators* appeared in 1981 and was in its third edition in 1990. Yet not one reference to these books appears in Getz's footnotes or his bibliography. When it came to biblical theology, Getz avoided three-quarters of the Bible.

Getz ignored completely the economics of the Old Covenant, except to dismiss Deuteronomy 28. Yet he called his book biblical theology. He seemed unaware of the massive deception involved in

22. Former Dallas Seminary professor S. Lewis Johnson publicly rejected the Ten Commandments as the heart of legalism. Legalism for him meant the Ten Commandments. He approvingly quoted fundamentalist Presbyterian pastor Donald Gray Barnhouse, who argued that "It was a tragic hour when the Reformation wrote the Ten Commandments into their creeds and catechisms and sought to bring Gentile believers into bondage to Jewish law, which was never intended either for the Gentile nations or for the church." S. Lewis Johnson, "The Paralysis of Legalism," *Bibliotheca Sacra*, (April/June 1963), p. 109.

23. Getz, *Material Possessions*, p. 233.

24. *Ibid.*, pp. 265–66.

both his hermeneutics and his title. Dispensationalists are incapable of thinking covenantally or judicially, for there are neither laws nor historical sanctions in their doctrine of the New Covenant during the so-called Church Age. For them, everything significant socially is found in relationships, feelings, and either legalism (the laymen) or a rejection of legalism in the name of an undefined spirit of interpretation (the scholars). They are antinomians regarding biblical law. They seek to improve on biblical law, either by replacing it with men's laws (legalism) or by undefined spiritual feelings (antinomianism). This is why the dispensational movement has yet to produce its first book on New Testament social theory or social ethics. It has no explicitly biblical theory of social causation. It shares this weakness with Lutheranism.

E. New Testament Applications

The New Testament Christian faces an even more rigorous requirement than the Old Covenant saint did: "But love ye your enemies, and do good, and lend, hoping for nothing again; and your reward shall be great, and ye shall be the children of the Highest: for he is kind unto the unthankful and to the evil" (Luke 6:35).[25] Even a poor non-resident alien is now to become the beneficiary. The man with assets is to lend to this person without hope of repayment. A charity loan is still governed by the Old Covenant rule: no interest.

Does this mean that every potential borrower's request must be granted? No; the charity loan is still limited by the rule that evil is not to be subsidized. The moral character and habits of the borrower must be known to the lender. The lender must make an evaluation: Is this a truly poor man whose economic troubles are not of his own making? There is no obligation on anyone's part to subsidize incompetence born of immoral or present-oriented behavior.

The person with assets to lend may choose to have a representative agency make this evaluation for him. He may decide to loan money to the agent or organization, allowing someone else to decide who deserves an interest-free loan. Such loans are to be made on the same basis as the Mosaic charitable loan: no interest. We are not to loan money at interest to charitable organizations. The idea of interest-paying church bonds is abominable.[26] If churches or non-profit

25. Gary North, *Treasure and Dominion: An Economic Commentary on Luke*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 10.

26. Gary North, "Stewardship, Investment, and Usury: Financing the Kingdom of

Christian organizations choose to raise money, let the members and supporters donate extra money (best), or borrow the money in the commercial loan market and give it to the church (second-best), or lend this money at zero interest (third-best). If Christian organizations must borrow money at interest, let them borrow from unbelievers or commercial banks. But this is a third-best decision, for it places the church in a subordinate position to covenant-breakers: the servanthood of the debtor. It is a dark day when God's church is in debt to unbelievers through commercial banks. It may have to be done, but it is a dark day when it is done.

In modern times, there is no provision for collateralized labor, i.e., a period of legally enforceable debt servitude. For charitable loans, this is a good rule; for commercial loans, it is not. Today, there is also no national year of release. This is legitimate; Israel's national sabbatical year was an aspect of the Mosaic land laws: the inheritance. Furthermore, the jubilee was an aspect of the original conquest. It no longer has any judicial or covenantal purpose.

The New Testament rule governing charity loans has broadened the Mosaic limits. Christians are to lend at zero interest to the righteous poor without hope of any repayment. The absence today of an enforceable period of debt servitude does not affect this obligation. If anything, it reinforces it. The very absence of such a period of servitude points to the New Testament's rule: *lend without hope of repayment*.

Would it be illegitimate for a society to legislate such a requirement, though not a period longer than the six-year limit of Deuteronomy 15? We must ask: On what basis? If the sabbatical year was a land law, which it appears to have been, then the annulment of Mosaic Israel's special covenantal position removes that as a justification. What covenantal legal principle might legitimately be substituted? Not the sabbath law. Paul was clear: "One man esteemeth one day above another: another esteemeth every day alike. Let every man be fully persuaded in his own mind" (Rom. 14:5).[27] The enforcement of the sabbath is not to become an aspect of judicial sanctions. The locus of enforcement has shifted to the individual.[28]

There was never any moral obligation to make commercial loans

God," in R. J. Rushdoony, *The Institutes of Biblical Law* (Nutley, New Jersey: Craig Press, 1973), Appendix 3.

27. Gary North, *Cooperation and Dominion: An Economic Commentary on Romans*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 14.

28. North, *Authority and Dominion*, Part 2, ch. 24.

under the Mosaic covenant. This is still the case. There remains a moral obligation to loan at zero interest to the brother in the faith or a righteous resident alien. This law had nothing to do with seed or land. This is why the uncircumcised resident alien was morally entitled to a zero-interest emergency charity loan. It was a law governing personal relations among people who agreed to live under the legal terms of God's civil covenant. It was a land law, but not a Promised Land law. It was a covenantal land law: a cross-boundary law that would apply to any nation formally covenanted under God.

Today, Western nations are only rarely formally covenanted under God, and none acknowledges the Bible to be the supreme law of the land. There is therefore no equal moral obligation to lend to resident aliens. This biblical obligation depends on the society's view of debt and the moral outlook of the poor neighbor. If the poor man is an honest man who is in a crisis through no fault of his own, then he is morally entitled to a zero-interest charity loan from a true believer in the God of the Bible. But, like the poor man in Exodus 22:26, he can legitimately be asked to surrender his cloak as collateral. This is a means of seeing to it that he does not indebt himself to many lenders simultaneously. This is an institutional restraint on debt servitude which should be honored today. To lend, hoping for nothing in return is one thing; to devise a system which encourages poor people to run up large debts on the basis of no collateral or multiple loans on the same piece of collateral is something else. Honest, hard-working, otherwise future-oriented people should not be encouraged to become servants to debt. Extending credit to present-oriented people who are willing to pay high rates of interest on commercial or consumer loans is legitimate (Deut. 15:6).[29] It is not legitimate to encourage future-oriented people who are trapped by circumstances beyond their control to go ever-deeper into charitable debt. They should also be encouraged to repay all debts to avoid a life of servitude. A sign of spiritual maturity is debt-free spending. A sign of even greater spiritual maturity is interest-free charitable lending.

There is no longer a six-year debt limit on this moral obligation to repay. The New Testament extends greater mercy, but it imposes greater moral maturity in paying off debts and avoiding them in the first place. Paul wrote: "For yourselves know how ye ought to follow us: for we behaved not ourselves disorderly among you; Neither did we eat any man's bread for nought; but wrought with labour and travail

29. Chapter 37.

night and day, that we might not be chargeable to any of you: Not because we have not power, but to make ourselves an ensample unto you to follow us. For even when we were with you, this we commanded you, that if any would not work, neither should he eat" (II Thess. 3:7–10).

Conclusion

The interest-free loan was a charitable loan. It was morally obligatory, though not legally obligatory, for an Israelite with surplus assets to loan to a poor Israelite brother or a poor resident alien on an interest- free basis. Such a loan involved the threat of a six-year maximum period of bondservice in case of a default. Liberation day was the national sabbatical year, which was also the year of release for all charitable loans. This was a very different kind of loan from an interest-bearing commercial loan that was collateralized by an Israelite's land or labor until the next jubilee. In the case of a non-Israelite, a default on a large commercial loan could lead to inter-generational slavery (Lev. 25:44–46).[30]

The early church and the medieval church misinterpreted the Mosaic laws governing charitable debt. A series of church councils and decrees placed extensive prohibitions on interest-bearing loans.[31] This hampered the growth of industry for over a thousand years. It also placed Christians into debt to Jews, who had no restrictions on lending at interest to gentiles. This created great hostility on the part of gentiles, and it led to repeated violence and defaults on loans, especially by gentile governments.

The sabbatical year is no longer required, for this law applied only to Canaan, when the date of Israel's entry into the land could be accurately determined. The sabbatical year was tied to the calendar of the feasts. With the New Testament, the locus of sabbath enforcement has been transferred to the individual conscience.[32] There is no longer a nationally applicable, legally enforceable sabbatical year.

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30. North, *Boundaries and Dominion*, ch. 30.

31. J. Gilchrist, *The Church and Economic Development in the Middle Ages* (New York: St. Martins, 1969), Documents. Gilchrist provides translations of numerous texts, from Nicea (325) on, that dealt with usury. The premier study of the late medieval church's position is John T. Noonan, *The Scholastic Analysis of Usury* (Cambridge, Massachusetts: Harvard University Press, 1957). For a summary, see Noonan, "The Amendment of Papal Teaching by Theologians," in Charles E. Curran (ed.), *Contraception: Authority and Dissent* (New York: Herder & Herder, 1965), pp. 41–75.

32. North, *Authority and Dominion*, ch. 24.

37

LENDING AND DOMINION

> *For the Lord thy God blesseth thee, as he promised thee: and thou shalt lend unto many nations, but thou shalt not borrow; and thou shalt reign over many nations, but they shall not reign over thee.*
>
> DEUTERONOMY 15:6

The theocentric aspect of this law is dominion: the extension of God's kingdom in history through the voluntary subordination of covenant-breaking nations. Dominion is an aspect of point three of the biblical covenant. The blessing was a positive sanction—grace precedes law—but the correct response was money-lending.

A. International Money-Lending

The public's hostility to money-lending is universal—as universal as the practice is widespread. There are passages in the Old Testament that indicate such hostility.[1] There has been a long ecclesiastical tradition that has restricted or prohibited lending at interest.[2] Then why does this law appear in the middle of a passage that restricts interest-bearing loans? Why should lending at interest be regarded as Israel's proper response to God's blessing?

This law had nothing to do with lending to the poor, yet it appears

1. Exodus 22:25; Leviticus 25:36–37; Deuteronomy 23:19; Nehemiah 5:7, 10; Psalms 15:5; Proverbs 28:8; Isaiah 24:2; Jeremiah 15:10; Ezekiel 18:8, 13, 17; 22:12.

2. J. Gilchrist, *The Church and Economic Development in the Middle Ages* (New York: St. Martins, 1969), Documents. Gilchrist provides translations of numerous texts, from Nicea (325) on, that dealt with usury. The premier study of the late medieval church's position is John T. Noonan, *The Scholastic Analysis of Usury* (Cambridge, Massachusetts: Harvard University Press, 1957). For a summary, see Noonan, "The Amendment of Papal Teaching by Theologians," in Charles E. Curran (ed.), *Contraception: Authority and Dissent* (New York: Herder & Herder, 1965), pp. 41–75.

in the middle of a passage dealing with loans to the poor. It stands in contrast to the remainder of the passage. The contrast between loans to the poor and loans to foreign nations is obvious. The Hebrew capitalist was to extend both kinds of loans. They were not the same kind of loan. The underlying motivation was also not the same. The loan to the poor brother or permanent resident alien (Lev. 25:35–37) was a charitable loan. The loan to the foreigner was not.

There was no prohibition against taking interest from a loan to a foreigner. What applied to the foreigner temporarily living in the land also applied to foreigners living abroad.

> Thou shalt not lend upon usury to thy brother; usury of money, usury of victuals, usury of any thing that is lent upon usury: Unto a stranger [*nokree*] thou mayest lend upon usury; but unto thy brother thou shalt not lend upon usury: that the LORD thy God may bless thee in all that thou settest thine hand to in the land whither thou goest to possess it (Deut. 23:19–20).[3]

How does a person lawfully accumulate capital needed to lend? By spending less than he receives. That is, he accumulates capital by becoming *a net exporter of goods and services*. He takes in more money than he spends on consumer goods and services.

What is true of an individual is equally true of a nation. I do not necessarily mean merely a nation-state; I mean a nation: a covenantally oath-bound society. To become an international money-lending society, a nation must be filled with people who are net exporters of goods and services. They can *lend abroad* only because they *sell abroad*. Even if they sell newly mined gold or silver, they are nevertheless exporters. If they are not involved in mining, then they have money to lend abroad because they have earned money from abroad, which they subsequently lend to people in those societies that have run trade deficits with them. We call an *excess of income in money* a *trade surplus*. Yet, technically, there has to be equality: value for value. Nobody in commerce gives away free money. Money must be earned. So, in the broadest sense, trade creates a *balance* (equality) of payments *surplus* (inequality). But how can there be a surplus if there is balance? Because there is a balance of assets: goods and services (assets) exported = goods and services (assets) imported + money loaned out (future income: asset). This equation applies also to an individual who is accumulating capital.

3. Chapter 57.

The motivation for the initial contact between a foreign borrower and an Israelite lender was probably international trade. The language barrier was overcome because of the motivation of making a profit.

Why would a foreigner want a loan from an Israelite? Why would he want this dependence on a foreigner? The most obvious reason was to finance additional trade. The foreigner planned to bring additional goods to sell to the Israelite. To finance more goods to bring into Israel, the foreigner requested a loan. He could take gold or silver back to his country, purchase goods, and bring them to Israel. If the profit margin on the sale of the goods was high enough, he was ready to pay a rate of interest to the Israelite.

The Israelite was ready to lend because he wanted a rate of return on his money. The foreigner was willing to pay more interest than a competing Israelite because of the import operation's profit opportunity. Because the lender probably had an on-going business relationship with the foreigner, he was willing to trust him. If the borrower defaulted, he would lose access to an outlet for his goods.

This explains why an individual Israelite importer would serve as a money-lender to a foreign exporter of foreign goods. But, at some point, the Israelites would run out of money to buy foreign goods. The importer would run out of money to lend to the foreign exporter. Therefore, for Israelites to serve as national money lenders, they would have to export more goods than they imported. They would have to run what is usually called a favorable balance of trade. Why favorable? Because the exporting nation takes in more money than it spends abroad on imported goods. But all trade must balance. Why, then, can an exchange be favorable? Because it allows the exporting nation to buy *production goods* in the nation it exports to. Instead of buying consumer goods and services in exchange for exported goods and services, individuals in the exporting nation buy foreign capital, i.e., production goods. Or they make loans to foreign purchasers of the exported goods.

Assume that the foreigner wanted to buy an item from an Israelite seller. Instead of paying cash, he borrowed the money from the Israelite exporter or from a lender in Israel. Or he may have agreed to pay a rate of interest for the value of the goods received from the Israelite exporter. In this case, no money changed hands. The foreigner paid for the item by means of a promise to pay. Over time, Israel's citizens built up capital abroad. They were paid a return on these investments. More money or goods or services flowed back into Israel as

time went on. The process could continue for as long as Israel could find foreign buyers for its goods and borrowers for its loans. Capital owned by Israelites would increasingly be located abroad.

For a nation to become an *international money-lender*, it must become an *international exporter*. It must enjoy a competitive advantage in international trade in order to gain an international advantage in money-lending. In fact, there can be no trade surplus without either money-lending abroad or purchases of foreign capital. To make the investments abroad, the exporting nation must be more efficient in selling its goods and services abroad than the importing nations are in selling theirs in return.

God told Israel to become an exporting nation. He did not say this explicitly. He said it implicitly when He told Israel to become a money-lending nation. He called Israel into the world trade markets. He told the Israelites to become more efficient producers than foreign nationals.

God called on Israelites to establish business contacts abroad. This would require their gaining mastery of foreign languages, as well as an understanding of foreign laws, currencies, and business practices. Israel was not to isolate itself from the rest of the world.

B. Extending the Covenant

Not only did God call Israelites to become familiar with foreign economic practices, He called them to demonstrate to foreigners the productivity of God's covenant. God's law was to become a means of evangelism (Deut. 4:5–8).[4] One proof of success for God's law would be Israel's greater productivity. Members of an importing nation who borrow from an exporting nation recognize the efficiency of the exporters. The presence of Israelite goods imported from abroad would testify to the efficiency of the exporters. As time went on, successful businessmen in foreign nations would learn the Israelites' secrets of economic success. They would have to imitate these practices in order to compete. After all, if they had nothing worth buying, Israel would cease trading with them.

Exporting is a means of cultural conquest. This form of conquest is not based on war. It is based on voluntary cooperation. But to export more goods than it imports, a nation must become a net exporter of capital. One form of capital exporting is money-lending.

4. Chapter 8.

For citizens of a foreign nation to have maintained the advantage of access to desirable goods imported from Israel, its economic representatives would have had to deal honestly with Israelite exporters and money-lenders. If its agents cheated Israel by defaulting on loans, and if the nation's courts upheld this, then the residents would suffer a reduction in the flow of goods and services.

Here is a legitimate reason to seek wealth: to become an international money-lender. There is a reason to become a money-lender: to increase the influence of your covenant-keeping society. The lender is the master over the borrower (Prov. 22:7).[5] To seek such mastery over other nations is legitimate. To be in a financial position to lend to citizens of covenant-breaking nations is a blessing of God. His kingdom is advanced by such lending. Conversely, it is a curse to be in debt to citizens of other nations.

The text here is not talking about what is today called foreign aid, which is in fact state-to-state aid: using tax money extracted from the residents of one nation to fund state-funded projects in another nation.[6] The text is talking about the aggregate debt or credit positions of a covenant-keeping society: the net effects of voluntary, individual decisions to lend to or borrow from foreigners.

C. Future-Orientation and Hierarchy

Everyone values the present more than the future, for responsibility is in the present. So is enjoyment and opportunity. But future-orientation is vital for planning. Without it, men would not save in the present for the sake of the future. The value of money would collapse. Who would hold money in the present if he did not plan to spend it in the future?[7]

We discount the present value of future income. This rate of discount is called the rate of interest. A complete discounting of the future would produce an infinite rate of interest. No one would sacrifice any present consumption for the sake of future consumption. Paul expressed this idea in terms of the Christians' faith in the bodily resurrection. "If after the manner of men I have fought with beasts at Ephesus, what advantageth it me, if the dead rise not? let us eat and drink; for tomorrow we die" (I Cor. 15:32).

5. Gary North, *Wisdom and Dominion: An Economic Commentary on the Proverbs*, 2nd ed. (Dallas, Georgia: Point Five Press, [2007] 2012), ch. 67.

6. P. T. Bauer, *Dissent on Development: Studies and debates in development economics* (Cambridge, Massachusetts: Harvard University Press, 1972), pp. 95–135.

7. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, [1990] 2012), Appendix J.

When people are highly future-oriented, they are willing to lend money or goods at lower rates of interest than less future-oriented people are willing to lend. They have what Mises called low time-preference. When people are present-oriented, they are willing to pay high rates of interest.[8] Edward Banfield called these two groups upper class (future-oriented) and lower class (present-oriented).[9] There is a profitable voluntary transaction possible between members of both groups: a future-oriented person can profitably lend to present-oriented person. This transaction is profitable on both sides. Both actors get what they want. But there is a superior and inferior in the relationship. "The rich ruleth over the poor, and the borrower is servant to the lender" (Prov. 22:7). While a present-oriented person gains access to the money or goods that he wants immediately, in exchange for a promise to repay the lender in the future, he does not gain this advantage at zero cost. He becomes a servant. But this is his choice. It is not a matter of compulsion.

The Bible makes it very clear that there are legitimate hierarchies in this life. One of these hierarchies is economic: lender over debtor. Another is social: master over servant. These hierarchies are individual. They are also social. They are also international.

This verse clearly recommends becoming an international lender. It very clearly discourages becoming an international debtor. This is another way of saying that it is an advantage to be future-oriented and a disadvantage to be present-oriented. *The covenant-keeper is supposed to be future-oriented*. He is supposed to be thrifty. Accumulating capital for the purpose of becoming a lender is a good thing for covenant-keepers.

Entire societies are characterized by a specific time orientation. Israel was to become a future-oriented society. When this happened, Israel would become a net lender of money. Surrounding nations would achieve their goals—present gratification—in exchange for future repayment. Israel would achieve its national goal—the extension of foreign trade and money-lending—by providing what the surrounding nations wanted: present gratification. Those on each side of the transaction would achieve their goals, but the result would be a hierarchy, with Israel on top.

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8. Murray N. Rothbard, *Man, Economy, and State: A Treatise on Economic Principles*, 2nd ed. (Auburn, Alabama: Mises Institute, [1962] 2009), ch. 6:3.

9. Edward C. Banfield, *The Unheavenly City: The Nature and Future of Our Urban Crisis* (Boston: Little, Brown, 1970), pp. 48–54.

It is a mistake to consider both positions—higher and lower, master and servant—as equal. Such a view reflects a false ethical neutrality. Freedom is better than servitude. This is why Paul told Christians slaves, "Art thou called being a servant? care not for it: but if thou mayest be made free, use it rather" (I Cor. 7:21).[10] The Mosaic law indicates that it is better to be on top than on the bottom, a money-lender rather than a money-borrower. Jesus reinforced this view in his parable of the fearful steward who buried his coin. The owner reproved the steward: "Thou oughtest therefore to have put my money to the exchangers, and then at my coming I should have received mine own with usury" (Matt. 25:27).[11]

As is true of every individual, not every nation can be a net exporter of goods and capital. Not every nation can be equal in productivity all of the time. There cannot be an exact balance of trade at all times. Each side gets what its members want, but the side that wants dominion rather than subordination has chosen the better goal. The question then becomes one of means. The Bible teaches that the correct means is the export of goods, services, and loans, not the export of armies.

Conclusion

This verse makes it clear that the nation of Israel was to become a money-lending nation by means of international trade. It was to become a trade surplus nation, i.e., a net exporter of goods, services, and money. The money exported (lent) out had to come from the surplus of exports over imports. Goods flowed out; money and goods flowed in. The lower the amount of present goods that flowed in, the larger the amount of future goods that would flow in later.

This is the model followed in the post-World War II era by the Asian "tigers": first Japan; then Hong Kong, Taiwan, South Korea, and Singapore. Today, China is following their lead. Their domestic economies have been export-driven. Their export businesses have learned how to compete in international markets. Their citizens in the aggregate have run net trade surpluses by becoming international lenders. This process is a unit: two sides of the same coin. Then the coin is lent at interest.

10. Gary North, *Judgment and Dominion: An Economic Commentary on First Corinthians*, 2nd ed. (Dallas, Georgia: Point Five Press, [2001] 2012), ch. 8.

11. Gary North, *Priorities and Dominion: An Economic Commentary on Matthew*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 47.

38

CONSUMING CAPITAL IN GOOD FAITH

> *All the firstling males that come of thy herd and of thy flock thou shalt sanctify unto the* Lord *thy God: thou shalt do no work with the firstling of thy bullock, nor shear the firstling of thy sheep. Thou shalt eat it before the* Lord *thy God year by year in the place which the* Lord *shall choose, thou and thy household. And if there be any blemish therein, as if it be lame, or blind, or have any ill blemish, thou shalt not sacrifice it unto the* Lord *thy God. Thou shalt eat it within thy gates: the unclean and the clean person shall eat it alike, as the roebuck, and as the hart.*
>
> DEUTERONOMY 15:19–22

The theocentric principle here is simple: *God should get paid first*. He was entitled to the unblemished firstborn males. The requirement of unblemished animals was an aspect of God's holiness: *boundaries*. God set aside certain animals for Himself. He owned them in a unique way, analogous to His special ownership of the forbidden tree in the garden.

A secondary theological principle, which governed the blemished firstborn, was this: the covenant's positive sanctions are predictable for covenant-keepers. God required covenant-keeping Israelites to consume their capital publicly as a way to testify to their confidence in the truth of this covenantal principle.

A. Sacrificing the Firstborn

This law was a land law.[1] It was a Passover law.

> And it shall be when the Lord shall bring thee into the land of the Canaanites, as he sware unto thee and to thy fathers, and shall give it thee, That thou shalt set apart unto the Lord all that openeth the matrix, and

1. On land laws, see Appendix J.

> every firstling that cometh of a beast which thou hast; the males shall be the LORD's. And every firstling of an ass thou shalt redeem with a lamb; and if thou wilt not redeem it, then thou shalt break his neck: and all the firstborn of man among thy children shalt thou redeem. And it shall be when thy son asketh thee in time to come, saying, What is this? that thou shalt say unto him, By strength of hand the LORD brought us out from Egypt, from the house of bondage: And it came to pass, when Pharaoh would hardly let us go, that the LORD slew all the firstborn in the land of Egypt, both the firstborn of man, and the firstborn of beast: therefore I sacrifice to the LORD all that openeth the matrix, being males; but all the firstborn of my children I redeem (Ex. 13:11–15).

The negative sanction of the slain animal was to testify against covenant-breakers. Pharaoh was the archetype of every covenant-breaker. Egyptians under his covenantal authority saw their firstborn sons die: the ultimate negative sanction in Old Covenant history, and in most other cultures as well. The slaying of the firstborn animal represented God's negative sanction against sinners: death. It represented Adam: the firstborn son who rebelled against God, which called forth negative sanctions.

These laws of sacrifice were ecclesiastical. Biblical civil law does not threaten negative sanctions for men's refusal to extend positive sanctions to others. Biblical civil law threatens negative sanctions against those who impose negative sanctions on others.

This does not mean that these laws had no civil implications. They did. The violator could be excommunicated, and an excommunicated man lost his citizenship. He moved from the legal status of Israelite to the legal status of stranger. He therefore could not serve as a judge. No longer being under the negative sanctions of the church, he could no longer remain eligible to impose negative civil sanctions on others. Israel was a theocracy. Dual confessions, ecclesiastical and civil, were required from those who possessed lawful civil authority.

B. Sacrifices Mandated an Immediate Loss

God owned the firstborn. When the firstborn males of clean animals arrived, they had to be eaten before the Lord in Jerusalem. The firstborn were signs of God's blessing. This law required men to consume the tokens of their economic future. These animals were not allowed to be trained to do any work. They were not to become capital assets. The people of Israel were required to squander a portion of their assets to the glory of God: *holy wastefulness*.

Clean, unblemished firstborn animals were set apart as holy sacrifices. Clean, blemished firstborn animals were set apart for a meal of celebration locally. As with the tithes of celebration,[2] this was an aspect of holy wastefulness. Israelites were to rejoice in complete confidence: "There's lots more where that came from!"

The donkey was set apart for execution, although it could be redeemed with a lamb (Ex. 13:13; 34:20). The donkey was not a sacrificial animal, nor could it be lawfully eaten, since it was unclean. It was a work animal, a beast of burden. It could be ridden or hooked up to a cart.

What of unclean animals other than donkeys? They had to be redeemed by a money payment, just as a firstborn son was. "Every thing that openeth the matrix in all flesh, which they bring unto the LORD, whether it be of men or beasts, shall be thine: nevertheless the firstborn of man shalt thou surely redeem, and the firstling of unclean beasts shalt thou redeem. And those that are to be redeemed from a month old shalt thou redeem, according to thine estimation, for the money of five shekels, after the shekel of the sanctuary, which is twenty gerahs. But the firstling of a cow, or the firstling of a sheep, or the firstling of a goat, thou shalt not redeem; they are holy: thou shalt sprinkle their blood upon the altar, and shalt burn their fat for an offering made by fire, for a sweet savour unto the LORD" (Num. 18:15–17). The point was, there had to be either death or redemption.

Regarding an unblemished clean animal: "Thou shalt eat it before the LORD thy God year by year in the place which the LORD shall choose, thou and thy household" (v. 22). This applied to the unblemished firstborn. These animals belonged to God. They were an economic liability: they had to be transported to the central city of sacrifice. It was likely that this would be done during one of the three annual festivals. In the meantime, these firstborn animals had to be cared for. They would absorb capital.

An unclean beast could not be lawfully consumed or offered. For these, the Israelite had to pay the market price plus 20% to the priest. "And if it be any unclean beast, of which they do not offer a sacrifice unto the LORD, then he shall present the beast before the priest: And the priest shall value it, whether it be good or bad: as thou valuest it, who art the priest, so shall it be. But if he will at all redeem it, then he shall add a fifth part thereof unto thy estimation" (Lev. 27:11–13).[3]

2. Chapter 35.

3. Gary North, *Boundaries and Dominion: An Economic Commentary on Leviticus*, 2nd ed. (Dallas, Georgia: Point Five Press, [1994] 2012), ch. 36:B.

The clean beast without a blemish was eaten by its owner, but only after it had been taken to the central city. The clean beast that had a blemish was eaten by its owner in the gates of the nearby city. A donkey either had to be redeemed by a money payment or a lamb had to be sacrificed in its place. These were consumption goods, not visible testimonies of the future. They could not become capital goods except in the case of the donkey, for which the owner sacrificed a lamb. *Such acts of consumption acknowledged publicly that God is in control of history*. He deserves a sacrifice. He will also bring additional wealth into the households of faithful Israelites. The economic loss involved in the sacrifice testified to a man's faith in this system of covenantal cause and effect, a system of covenantal causation that operates predictably in history.

With respect to blemished animals, the law was less burdensome: "Thou shalt eat it within thy gates." This saved transportation costs. These animals were not sacrifices in the sense of burnt offerings. They were communal meals: "the unclean and the clean person shall eat it alike" (v. 22). The word "unclean" applied to those who ate the meal. It could not have applied to the food eaten. Israelites could not lawfully eat unclean foods. But they could lawfully eat with strangers in certain ritually required meals. More than this: *they were required to eat with strangers*. They even had to pay for the meal. The foreigner was more likely to dwell in a walled city, where he could buy, sell, and inherit real estate. He was to be invited to share in the festivities. He was to be made welcome. He was to be made aware of the fact that Israelites regarded themselves as under the protective covenant of God. *The positive sanctions associated with the productivity of the firstborn could be safely squandered in a festival meal*. Here was a nation that had such confidence in the reliability of God's covenant sanctions that people were willing to consume their firstborn animals at a party in which covenant-breakers were invited. This was clearly a form of evangelism.

C. A Statement of Faith

When God required the Israelites to eat the firstborn male animals, He was requiring them to make a statement of faith: *they had confidence in the future*. God would enable the female animal to bring additional offspring into the world. Even miscarriages could be over come through national covenantal faithfulness. "There shall nothing cast their young, nor be barren, in thy land: the number of thy days I

will fulfil" (Ex. 23:26).[4] God was with Israel in a special, redemptive way. Israelites were required to acknowledge this ritually and economically. A way to acknowledge their confidence of the future was to consume capital in partying.

A shared meal was an important tool of evangelism. First, it pointed to the gentile as a co-laborer under the dominion covenant. He, too, had a legitimate role in the subduing of the earth (Gen. 1:26).[5] His work is acceptable to God.[6] Although the uncircumcised stranger was not a recipient of special grace, he was a recipient of common grace.[7] The shared meal of the blemished animal was a means of common grace. The animal could not be used on God's altar, but it had to be used to benefit the uncircumcised resident. His judicial status as a covenant-breaker was his lawful claim to access to the meal. As to which covenant-breakers would be invited, this was up to the Israelite, but someone from among the class of unclean men had to be invited.

Second, the shared meal pointed to the need of the Israelite to maintain contacts with uncircumcised residents within the gates of the city. If a man eats a meal with another man, there is a degree of fellowship present. Those who eat together normally talk together. The obvious question from the covenant-breaker would have been: "Why did you invite me? I'm not an Israelite." This would have served as a means of testimony regarding God's deliverance of Israel in history, just as the children's question did at the family's Passover meal (Ex. 12:26–27).

Clearly, the blessings of God were to pass down to covenant-breakers who lived in Israel. The blessings in this case were paid for by the sacrifice of a capital asset. This was another example of Israel's uniqueness in the ancient world. The stranger was to participate ritually in the life of the nation. This did not entitle him to citizenship; only circumcision and inter-generational covenantal faithfulness could do that (Deut. 23:2–8). He could not participate in the Passover meal apart from circumcision (Ex. 12:48). But people of his

4. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 3, *Tools of Dominion* (1990), ch. 55.

5. Gary North, *Sovereignty and Dominion: An Economic Commentary on Genesis* (Dallas, Georgia: Point Five Press, 2012), ch. 3.

6. This means that his work is acceptable to covenant-keepers. The wealth supplied by his productivity can lawfully be purchased by covenant-keepers, thereby increasing their wealth.

7. Gary North, *Dominion and Common Grace: The Biblical Basis of Progress* (Tyler, Texas: Institute for Christian Economics, 1987).

judicial status were entitled to participate in ritually required meals. I am aware of no other nation in the ancient world whose code of law offered the foreigner equal access to the civil courts (Ex. 12:49),[8] real estate ownership (Lev. 25:29–30), ecclesiastical membership (Ex. 12:48), and fellowship. The law of God served as a means of evangelism (Deut. 4:5–8).[9]

D. The Future-Orientation of Biblical Covenantalism

The sacrifice of the firstborn was an act governed by a worldview that was future-oriented. The Israelite was told to suffer a present loss for the sake of the covenant. The covenant imposed economic costs in the present, but it promised positive sanctions in the future. Participation in ritual sacrifices and meals was an external requirement that was to encourage covenant-keepers to think in terms of costs and benefits over time. This particular sacrifice—the firstborn male—was uniquely geared to imparting this message. The primary Old Covenant sign of God's blessing in history—the firstborn son[10]—had to be redeemed, and the firstborn animal had to be sacrificed, paid for, or, in the case of the donkey, redeemed by the slaying of a lamb.

The sacrificial system, like the tithe, was a means of manifesting God's future-orientation. He is sovereign over history. He brings His decree to pass. Israel was supposed to look to the future for the culmination of the inheritance. "For evildoers shall be cut off: but those that wait upon the LORD, they shall inherit the earth. For yet a little while, and the wicked shall not be: yea, thou shalt diligently consider his place, and it shall not be. But the meek shall inherit the earth; and shall delight themselves in the abundance of peace" (Ps. 37:9–11). This is the theme of Psalm 37.[11] The present is important, for it is the locus of decision-making and responsibility, but the future is important as the locus of fulfillment. The righteous man will sacrifice a portion of the wealth of the present for the sake of fulfillment in the future. The sacrificial system was designed to compel the public honoring of this principle by individual covenant-keepers. Participation in public rituals was supposed to reinforce men's faith in this prin-

8. North, *Authority and Dominion*, Part 1, *Representation and Dominion* (1985), ch. 14.

9. Chapter 8.

10. "Reuben, thou art my firstborn, my might, and the beginning of my strength, the excellency of dignity, and the excellency of power" (Gen. 49:3). "He smote also all the firstborn in their land, the chief of all their strength" (Ps. 105:36).

11. Gary North, *Confidence and Dominion: An Economic Commentary on Psalms* (Dallas, Georgia: Point Five Press, 2012), ch. 6.

ciple. *External observance was supposed to reinforce internal acceptance; internal acceptance was supposed to reinforce external observance.*

This *system of circular reinforcement* between external and internal law-keeping is a fundamental principle of all law-making. Laws do not make men good. Man is not saved by law in a special grace sense, but good laws reinforce good ideals. Laws that most people accept as moral and legitimate create habitual patterns of behavior. Habits make certain behavioral patterns less costly to individuals, more automatic, and therefore more predictable by others. *By increasing men's predictability, good habits extend the division of labor.* Other men trust their fellows to perform in predictable ways. This lowers risk. It lowers costs. Economics teaches that when the price of something is lowered, more of it will be demanded. Social cooperation increases when men's good habits become ingrained. This increases the division of labor and therefore increases total output per unit of resource input. Wealth increases.

A future-oriented person is an upper-class person.[12] He makes decisions in terms of a lower rate of interest than a present-oriented person. He discounts the present value of future goods by a lower rate.[13] A future-oriented person is willing to forfeit present consumption (i.e., save) for the sake of future income at a rate of interest that does not lead a present-oriented person to save. A society filled with future-oriented people will have a faster rate of growth, other things being equal, than a society of present-oriented people.

Israel was supposed to be future-oriented. God's assignment to the Israelites was for them to extend the kingdom of God on earth. This is every person's assignment (Gen. 1:27–28; 9:1–17), but Israel was to honor it. Nevertheless, future-orientation was not sufficient to enable them to achieve this goal. They had to put God first. They had to acknowledge ritually that God was the source of their blessings. It was not their future-orientation alone that provided their blessings; it was God.

Conclusion

The sacrifice of the firstborn animal imposed an economic loss on every Israelite family. This loss had to be borne without complaint for

12. Edward C. Banfield, *The Unheavenly City: The Nature and Future of Our Urban Crisis* (Boston: Little, Brown, 1970), pp. 48–50.

13. Murray N. Rothbard, *Man, Economy, and State: A Treatise on Economic Principles*, 2nd ed. (Auburn, Alabama: Mises Institute [1962] 2009), ch. 6:3.

the sake of the future. The sacrifice of the animal was to serve as a testimony regarding God's deliverance of Israel from Egypt. It therefore was a testimony to *God's sovereignty over history*. God would continue to deliver Israel if Israel remained faithful. The covenant's negative sanctions had to be imposed on the firstborn so that the covenant's positive sanctions would continue to be showered on Israel. For the sake of present testimony to sons and strangers, as well as for the sake of future blessings, the present loss of the firstborn or its redemption price had to be borne, preferably enthusiastically. "Every man according as he purposeth in his heart, so let him give; not grudgingly, or of necessity: for God loveth a cheerful giver" (II Cor. 9:7).[14]

14. Gary North, *Ethics and Dominion: An Economic Commentary on the Epistles* (Dallas, Georgia: Point Five Press, 2012), ch. 9.

39

INDIVIDUAL BLESSING AND NATIONAL FEASTING

And thou shalt rejoice in thy feast, thou, and thy son, and thy daughter, and thy manservant, and thy maidservant, and the Levite, the stranger, and the fatherless, and the widow, that are within thy gates. Seven days shalt thou keep a solemn feast unto the LORD *thy God in the place which the* LORD *shall choose: because the* LORD *thy God shall bless thee in all thine increase, and in all the works of thine hands, therefore thou shalt surely rejoice. Three times in a year shall all thy males appear before the* LORD *thy God in the place which he shall choose; in the feast of unleavened bread, and in the feast of weeks, and in the feast of tabernacles: and they shall not appear before the* LORD *empty: Every man shall give as he is able, according to the blessing of the* LORD *thy God which he hath given thee.*

DEUTERONOMY 16:14–17

The theocentric principle governing these three festival laws is the national covenant, which included foreigners. The festivals were to be held at a central location. This was a matter of geographical boundaries (point three).[1] The festivals were tied to blessings. This was a matter of sanctions (point four).[2]

A. Citizenship and Feasting

This chapter in Deuteronomy recapitulates the laws governing the three mandatory national feasts. These were holy periods or holy days. From such celebrations we derive the word "holidays." Holidays are days that are set apart by law for special activities. Holiness is an aspect of point three of the biblical covenant: boundaries.

These were clearly ecclesiastical laws. They had to do with priestly

1. Ray R. Sutton, *That You May Prosper: Dominion By Covenant*, 2nd ed. (Tyler, Texas: Institute for Christian Economics, [1987] 1992), ch. 3.
2. *Ibid.*, ch. 4.

activities.[3] All three feasts had to be celebrated by the adult males of the nation at a central location. The negative sanction attached to the law of the feasts was excommunication. The text does not state this explicitly, but the requirement of the festival laws was a journey to the central city where the priestly sacrifices were to be performed.

This does not mean that there was complete separation between the civil and ecclesiastical covenants. At the feast of Booths (Tabernacles), one year in seven, the entire law had to be read publicly to the assembled nation (Deut. 31:10–13).[4] This included civil law. This event took place in the sabbatical year, the year of debt release (v. 10). Strangers had to attend (v. 12). While strangers were not citizens in the sense of judges, they were beneficiaries of the Mosaic civil law. The implication is that attendance at the reading of the law, which included civil law, was required. Then what would have been the appropriate civil sanction against strangers who failed to attend? The law is silent. It was not loss of citizenship; they were not citizens. It was not expulsion from the land; they could have been property owners in the cities. Property rights were defended in Israel; this is basic to the rule of law. There does not appear to have been a civil sanction for non-attendance. Presumably, the sanction was ecclesiastical: exclusion from the right to participate at the national feasts, where the poor and strangers were to be welcomed into the family feasts. The civil covenant was not the focus of concern in the festival laws, except one year in seven. The ecclesiastical covenant, which extended to strangers who wanted to participate, was the concern.

Nevertheless, there was one civil implication of the stranger's refusal to participate in the feasts. A circumcised stranger was on the road to full citizenship. Israel allowed outsiders to apply for citizenship, i.e., membership in the congregation. Depending on which nation he came from, this took either three generations or 10 (Deut. 23:3–8). Any refusal on his part to participate in the national feasts would have led to his excommunication. He would no longer have had lawful access to the Passover, which circumcised strangers possessed (Ex. 12:48). His excommunication would have revoked the covenantal validity of his circumcision. This would have delayed his heirs' inheritance of citizenship for an extra generation. Once again, we see the unbreakable relationship governing biblical law, oath-sanctions, and lawful inheritance.

3. On priestly laws, see Appendix J.
4. Chapter 75.

B. Covenantal Participation

The five representatives listed in this law were identified repeatedly in the Mosaic law as representatives of the oppressed. The manservant and maidservant were under the jurisdiction of the family. The fatherless and the widow were not part of the family, but they were to be invited by other families to participate in the prosperity of the community (Deut. 14:28–29).[5] Finally the stranger or resident alien (*geyr*) who had placed himself under God's law was to be invited.

Verse 12 provides the reason: "And thou shalt remember that thou wast a bondman in Egypt: and thou shalt observe and do these statutes." Israel's experience in Egypt was representative of injustice and oppression. What had happened to them in Egypt should not happen to the politically and economically weak in Israel. *Those who were under the law were to be treated well. The issue was the covenant*. Those who were under the civil covenant were bound by oath to obey the civil law. The rule of law was mandatory in Israel. Israel's righteousness before God, like every judge's righteousness, was manifested in the courts.

> One law shall be to him that is homeborn, and unto the stranger that sojourneth among you (Ex. 12:49).[6]
>
> One law and one manner shall be for you, and for the stranger that sojourneth with you (Num. 15:16).
>
> Ye shall have one law for him that sinneth through ignorance, both for him that is born among the children of Israel, and for the stranger that sojourneth among them (Num. 15:29).
>
> Cursed be he that perverteth the judgment of the stranger, fatherless, and widow. And all the people shall say, Amen (Deut. 27:19).

These were civil commandments. They had to do with civil courts: the place where negative sanctions were imposed. But the requirement went beyond negative civil sanctions; it involved God's positive sanctions: "He doth execute the judgment of the fatherless and widow, and loveth the stranger, in giving him food and raiment. Love ye therefore the stranger: for ye were strangers in the land of Egypt" (Deut. 10:18–19). The laws governing the three annual ecclesiastical feasts were part of this general obligation to love the stranger. The

5. Chapter 35.

6. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 1, *Representation and Dominion* (1985), ch. 14.

positive sanctions of participation were ecclesiastical. Mosaic civil law did not invoke positive sanctions, because positive civil sanctions can only be funded by the imposition of negative sanctions on others.

C. Expensive Celebrations

In my commentary on Leviticus, I devoted space to the economics of the three centralized feasts. I concluded that the economic burden must have been in the range of at least 15% of gross income, not counting travel and lodging costs, and not counting forfeited income. Adding these costs, the total burden may have been closer to 25%, the estimate of Rabbinic tradition.[7] This was a very heavy burden. It had to be borne in faith. But the increased wealth of the nation would have pointed to the reliability of God's covenantal promises. The law specifically stated that the testimony of personal economic prosperity was to be considered by each celebrant in estimating what he could afford to spend at the festivals. In faith, men were to open their wallets in a common celebration three times a year.

The costs of the festivals had another important function. They kept money away from the civil government. This kept the state from expanding. This is never mentioned in the commentaries.

The Israelites were told that God would reward them, and that they had to celebrate this bounty. The blessings of God were guaranteed: "Be cause the LORD thy God shall bless thee in all thine increase, and in all the works of thine hands, therefore thou shalt surely rejoice" (v. 15b). This promise was corporate. Yet there was also the assumption of individual blessings: "Every man shall give as he is able, according to the blessing of the LORD thy God which he hath given thee" (v. 17). The individual blessings would vary; hence, the individual was required to give of his increase in celebration. He was not to hold back in his rejoicing, for God had not held back His blessings.

Moses was telling them that God's deliverance of the nation out of Egyptian bondage and wilderness wandering was the down payment on the promised inheritance. Blessings in the land would verify the presence of God among His people. So, *economic growth was basic to the covenant's system of sanctions*. The people would be able to afford the three national celebrations. These celebrations would be very expensive, but they would be affordable to the poorest man in Israel.

7. Gary North, *Boundaries and Dominion: An Economic Commentary on Leviticus*, 2nd ed. (Dallas, Georgia: Point Five Press, [1994] 2012), Introduction, section H.

Every man could risk walking away from his labors for up to seven weeks a year (depending on his distance from Jerusalem).

The blessings would fund the celebrations. This was God's promise of great economic blessings because the costs of celebration would be high. He was promising His covenantal blessings. *These blessings would confirm His covenant*. They would verify His presence among them, not just in a spiritual sense but in an economic sense. The covenant's blessings would be visible in history. Israel's mandatory response was to take a large portion of their blessings and reinvest this in national celebrations. They would come together in the presence of God because God had blessed them nationally and individually, as promised in the Mosaic law itself. God was with them individually in their local communities, as seen in their economic prosperity. Their mandatory response was to take a substantial portion of their wealth and squander it in celebration. In this sense, the celebrations were to serve as exercises in faith. God called on them to pour their profits back into the nation. The nation was not to be regarded as a political entity. On the contrary, the lion's share went into celebrations. The state could not lay claim to a large portion of the nation's wealth because this otherwise discretionary income was not legally discretionary. One important effect of this law was the binding of both the state and the priesthood.

D. Fighting Condition

Not only were church and state to be kept trim by this law, so were the people. *The mandated festivals can be considered as a national military fitness program*. God's holy army would be in training. Every man had to walk to the nation's central place of worship three times a year. Only those who were on a journey could skip two of the three feasts: Firstfruits and Booths.[8]

Had the celebrations been legal in their home towns, the Israelites would have been tempted to consume their capital in calories. This would have been a form of gluttony. This was prohibited by the Mosaic law. *Gluttony was a mark of rebellion*. Parents were required to act as prosecuting agents in a covenant lawsuit against gluttonous sons: "And they shall say unto the elders of his city, This our son is stubborn and rebellious, he will not obey our voice; he is a glutton, and a drunkard" (Deut. 21:20).[9] "For the drunkard and the glutton

8. I presume this because of the law governing Passover, which allowed a late celebration because of journeys (Num. 9:10).

9. Chapter 31.

shall come to poverty: and drowsiness shall clothe a man with rags" (Prov. 23:21).[10] Thus, Solomon warned: "When thou sittest to eat with a ruler, consider diligently what is before thee: And put a knife to thy throat, if thou be a man given to appetite. Be not desirous of his dainties: for they are deceitful meat" (Prov. 23:1–3).

There was no prohibition against eating meat. In fact, the opposite was true. The people were to enjoy the fat of the meat they brought to be sacrificed. In Moses' parting account of God's dealings with Israel, past and future, he focused on fat. Israelites were allowed to eat the fat of the land, including animals. But the people were not to become bloated. A nation of obese people would testify to the nation's subordination to false gods. Moses adopted the imagery of obesity to describe the nation's rebellious spiritual condition.

> For the LORD's portion is his people; Jacob is the lot of his inheritance. He found him in a desert land, and in the waste howling wilderness; he led him about, he instructed him, he kept him as the apple of his eye. As an eagle stirreth up her nest, fluttereth over her young, spreadeth abroad her wings, taketh them, beareth them on her wings: So the LORD alone did lead him, and there was no strange god with him. He made him ride on the high places of the earth, that he might eat the increase of the fields; and he made him to suck honey out of the rock, and oil out of the flinty rock; Butter of kine, and milk of sheep, with fat of lambs, and rams of the breed of Bash an, and goats, with the fat of kidneys of wheat; and thou didst drink the pure blood of the grape. But Jeshurun waxed fat, and kicked: thou art waxen fat, thou art grown thick, thou art covered with fatness; then he forsook God which made him, and lightly esteemed the Rock of his salvation. They provoked him to jealousy with strange gods, with abominations provoked they him to anger. They sacrificed unto devils, not to God; to gods whom they knew not, to new gods that came newly up, whom your fathers feared not (Deut. 32:9–17).

The Mosaic law encouraged the consumption of fat, but it also mandated exercise. God's gifts were not to be misused. Men were not to shovel their net income into their mouths. They were not to eat their own futures. In an agricultural society, wealth is understood as having to do with excess food. Being fat in such a society would have been an aspect of what today is called "conspicuous consumption." Fat was allowed by the Mosaic law. The language of fatness was invoked by Moses to symbolize God's blessings. But fat was not to compromise anyone's physical mobility. A man's extra weight had

10. Gary North, *Wisdom and Dominion: An Economic Commentary on Proverbs*, 2nd ed. (Dallas, Georgia: Point Five Press, [2007] 2012), ch. 74.

to be paid for on journeys to Jerusalem three times a year. There was a strong incentive for the obese person to reduce his intake of food. The kind of obesity that is the result of lust for food was equated with the lust to distort one's senses with alcohol to the point of irresponsibility.[11] Fat was allowed—indeed, it was mandated at the feasts. Alcohol was also allowed (Deut. 14:26).[12] But gluttony and drunkenness were prohibited.

Conclusion

God promised covenantal blessings for Israel's covenantal faithfulness. The national festivals were part of this system. They were expensive events that required the men of Israel to gather in one place at the same time. These festivals were God's way of establishing a sense of national community under His law. Israel would be more than tribes and cities. Israel was a holy nation.

11. The judicial issue of drunkenness is responsibility before God. Any substance or practice (e.g., a discipline that produces a demonic trance) that distorts one's senses so that one becomes unable to judge his surroundings responsibly must be avoided. An exception is where the individual places himself legally and physically under the authority of others, as is the case in the administration of anesthetics.

12. See Appendix G.

40

CASUISTRY AND INHERITANCE

Judges and officers shalt thou make thee in all thy gates, which the LORD *thy God giveth thee, throughout thy tribes: and they shall judge the people with just judgment. Thou shalt not wrest judgment; thou shalt not respect persons, neither take a gift: for a gift doth blind the eyes of the wise, and pervert the words of the righteous. That which is altogether just shalt thou follow, that thou mayest live, and inherit the land which the* LORD *thy God giveth thee.*

DEUTERONOMY 16:18–20

The theocentric focus of this law was the impartial judgment of God. This has to do with a faithful application of God's law to specific judicial cases. The issue is justice, which is an aspect of dominion. While the central issue is obedience, the specific application is judgment: point four of the biblical covenant. More than any passage that I have considered before in this commentary, this one seems to be out of place: in the section of Deuteronomy relating to point three: law.

A. Rendering True Judgment

This was not a land law. It was a cross-boundary law.[1] Men are to render honest judgments in history because God does. "Wherefore now let the fear of the LORD be upon you; take heed and do it: for there is no iniquity with the LORD our God, nor respect of persons, nor taking of gifts" (II Chron. 19:7). Men's covenantal judgments in history are to conform judicially to God's covenantal judgments in history and eternity.

In rendering covenantal judgment, men are required to think God's thoughts after Him as creatures. They can do this because they are made in God's image. *The essence of man's status as God's im-*

1. On land laws and cross-boundary (universal) laws, see Appendix J.

age-bearer is his ability to render judgment.[2] This is why Satan tempted mankind through the serpent by telling Eve to eat from the tree of the knowledge of good and evil. Adam and Eve were supposed to render judgment against the serpent in terms of God's revealed word.[3] The covenantal hierarchy[4] of God > man > creation was to be preserved by man's representative act of rendering God's judgment against Satan's representative agent, the serpent. Adam and Eve were to render judgment against Satan by refusing to follow the serpent's advice, i.e., his false rendering of judgment against God's revealed word. The essence of the temptation in the garden was the rendering of judgment for or against God's revealed word, for or against the serpent's word. Adam and Eve were to render a joint verdict of "guilty" against the serpent. His crime was having testified falsely against God's word. They were to impose the appropriate sanction by crushing his head. They could not judge Satan directly, but they could kill his covenantal representative. Because they refused to do this, God prophesied that a son of Adam who would do this (Gen. 3:15).

To this law were attached positive sanctions: life and property. "That which is altogether just shalt thou follow, that thou mayest live, and inherit the land which the LORD thy God giveth thee" (v. 20). The state was in no position to provide the sanction of life. That was God's prerogative. These sanctions were not civil sanctions, for they were positive sanctions. They would come in response to honest judgment. God would give Israel life and inheritance if Israel's judges rendered honest judgment.

This law governed the establishment of local civil courts. These courts could not have been not ecclesiastical, for this law made no reference to priests or Levites. The ecclesiastical covenant was not here invoked by Moses. This means that the civil covenant was the focus of this law. Officers and judges were civil magistrates.

B. Stoning and Hierarchy

This raises the judicial issue of stoning. Here are two reasons why stoning was required by the Mosaic law as the proper means of pub-

2. You might want to commit this sentence to memory. It is important.

3. Gary North, *Sovereignty and Dominion: An Economic Commentary on Genesis* (Dallas, Georgia: Point Five Press, [1987] 2012), Appendix E: "Witnesses and Judges."

4. Ray R. Sutton, *That You May Prosper: Dominion By Covenant*, 2nd ed. (Tyler, Texas: Institute for Christian Economics, [1987] 1992), ch. 2. Gary North, *Unconditional Surrender: God's Program for Victory*, 5th ed. (Powder Springs, Georgia: American Vision, [1980] 2010), ch. 2.

lic execution. First, stoning conforms to the imagery of the crushed head. A stone is most likely to be fatal when it crushes the head. Second, stoning allows joint participation in the judicial act of enforcing civil sanctions. Both Adam and Eve would have participated in the execution of the serpent, not just Adam.

Men imposed this sanction before God revealed His law to Moses. The practice of stoning was understood by both the Egyptians and the Israelites: "And Pharaoh called for Moses and for Aaron, and said, Go ye, sacrifice to your God in the land. And Moses said, It is not meet so to do; for we shall sacrifice the abomination of the Egyptians to the LORD our God: lo, shall we sacrifice the abomination of the Egyptians before their eyes, and will they not stone us? We will go three days' journey into the wilderness, and sacrifice to the LORD our God, as he shall command us" (Ex. 8:25–27). In the wilderness era, Moses despaired: "And Moses cried unto the LORD, saying, What shall I do unto this people? they be almost ready to stone me" (Ex. 17:4). The penalty against coming close to Mt. Sinai when God revealed His presence to the nation was stoning, both of man and beast (Ex. 19:13). For an animal to gore a man calls forth stoning (Ex. 21:28–29, 32). Goring a human is a breach of the covenant's hierarchical order: man over animal. Only after these events and case laws did the Mosaic law mandate stoning against those who testified falsely about God. False prophets were to be stoned (Deut. 13:1–5). So were members of an Israelite household who tempted other members to worship a false god (Deut. 17:2–6). Finally, an unmarried woman who had sex with another man before marriage, and who did not tell her betrothed husband about this in advance, could be accused of this crime by her newly wedded husband.[5] The penalty was stoning (Deut. 22:21).

What did these crimes have in common? A violation of the covenantal hierarchy: a goring beast over a human being, a false prophet over the community, a rebellious family member over the others, a false wife over her husband. Whenever a major violation of point two of the biblical covenant took place, the appropriate sanction was stoning: crushing the head.[6]

5. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 3, *Tools of Dominion* (1990), ch. 47:C.

6. That such a suggestion appalls modern Christians indicates the extent to which pluralism has undermined Christian social thought. The crime of treason against God no longer is regarded as a crime by modern man; hence, the appropriate Mosaic sanction is considered barbaric. In a society in which blasphemy is a trifle, stoning is an offense.

C. Hierarchy, Casuistry, and Economic Growth

The Mosaic legal system, like all legal systems, was hierarchical: point two of the biblical covenant. The issue here was authority, namely, the voice of authority. Someone must speak God's word authoritatively and representatively in history. Rendering covenantal judgment is a representative act. This is why point two of the covenant—hierarchy, representation, authority—is always connected with point four: rendering judgment, imposing sanctions. In declaring God's word in history, God was above Moses, Moses was above the civil judges, and the civil judges were above the people. God revealed His law to Moses, who taught God's law to civil magistrates, who then served as judges.

1. Judge-Declared Law

The judges were required by God to render judgment in specific cases. This meant that they were required by God to apply the Mosaic law to disputes that would arise between men. The judges were therefore required by God become experts in the art of *casuistry*: the application of general legal principles and specific case law precedents to new situations. The general legal principles were the Ten Commandments. The case laws were specific biblical laws that extended the Ten Commandments to recognizable historical situations.[7] By means of casuistry, the judges were supposed to bring justice to Israel. Over time, a body of judicial opinion and precedents would be accumulated which would serve as judicial wisdom. Judicial precedents would then extend the rule of law. Men would begin to think covenantally, judging their own actions in advance. This would not be judge-made law; it would be *judge-declared law*. God makes the law; His judges are to apply it in history and even in eternity. Jesus announced to His disciples at the Passover meal: "And I appoint unto you a kingdom, as my Father hath appointed unto me; That ye may eat and drink at my table in my kingdom, and sit on thrones judging the twelve tribes of Israel" (Luke 22:29–30). Paul announced to the church at Corinth: "Know ye not that we shall judge angels? how much more things that pertain to this life?" (I Cor. 6:3).[8]

The original revelation of the Mosaic law was top-down: from God to Moses to the judges. This top-down hierarchical element was to be re-confirmed in Israel once every seven years, when the entire

7. North, *Tools of Dominion*, *ibid*.

8. Gary North, *Judgment and Dominion: An Economic Commentary on First Corinthians*, 2nd ed. (Dallas, Georgia: Point Five Press, [2001] 2012), ch. 6.

nation was to be assembled at a common location, and the entire law was to be read to them publicly (Deut. 31:10–13).[9] But this event was comparatively rare. The teaching of God's revealed law would normally have been conducted locally: by the Levites, who were judicial specialists, and by the civil judges in actual cases. The Levites were agents of God who declared God's revelation and who served as judges in ecclesiastical disputes. The civil magistrates were officers ordained through the civil covenant who possessed the power of the sword: the monopoly of physical coercion. They declared the civil law publicly and applied it to men's bodies (whipping[10] and capital punishment[11]) and their property (fines[12] and restitution[13]).

2. Legal Predictability

When both parties are fairly certain that the law's sanctions will be imposed on the disputant who loses the case, the person with the weaker case has an incentive to settle out of court. This reduces the number of cases that are brought to trial. A successful legal system is one in which the high predictability of the law leads to increased self-government and a reduction in the number of cases brought to trial.[14] A vast increase in the number of court cases is evidence of the break down in the rule of law: the clogging of the courts.[15]

The greater the predictability of the courts, the greater the incentive for men to cooperate with each other. Why? Because the greater predictability of the judge's application of the law's sanctions reduces the cost of predicting the results of human action. As with any other scarce resource, as the price is lowered, more is demanded. *The price of the division of labor is reduced by predictable law*. The division of labor is increased by an increase in the rule of law: more people take advantage of the opportunities offered by increased social cooperation. This increased division of labor raises the output of cooperating in-

9. Chapter 75.

10. "Forty stripes he may give him, and not exceed: lest, if he should exceed, and beat him above these with many stripes, then thy brother should seem vile unto thee" (Deut. 25:3).

11. For a list of cases, see *Authority and Dominion*, Appendix M, Addendum.

12. Fines must be used to compensate victims of unsolved crimes, not as revenue sources for the state. *Ibid*., chaps. 37:D:3; 41:C.

13. Exodus 22:1–13.

14. F. A. Hayek, *The Constitution of Liberty* (Chicago: University of Chicago Press, 1960), p. 208.

15. This has been the situation in the United States since the 1960s: Macklin Fleming, *The Price of Perfect Justice* (New York: Basic Books, 1974).

dividuals. The decentralized decisions of individuals become more predictable. This reduces the cost of obtaining that most precious of all scarce economic resources, accurate knowledge of the future. We can predict more accurately what other people will do when we and they abide by the rules. F. A. Hayek, the free market economist and legal theorist, argued that individual creativity and flexibility are secured by fixed rules. "The maximal certainty of expectations which can be achieved in a society in which individuals are allowed to use their knowledge of constantly changing circumstances for their own equally changing purposes is secured by rules which tell everyone which of these circumstances must not be altered by others and which he himself must not alter."[16] As I wrote in *Authority and Dominion*:

> F. A. Hayek made a point, which must be taken seriously by those who seek to explain the relationship between Christianity and the advent of free enterprise capitalism in the West. "There is probably no single factor which has contributed more to the prosperity of the West than the relative certainty of the law which has prevailed here."[17] Economist Thomas Sowell's comments are especially graphic: "Someone who is going to work for many years to have his own home wants some fairly rigid assurance that the house will in fact belong to him—that he cannot be dispossessed by someone who is physically stronger, better armed, or more ruthless, or who is deemed more 'worthy' by political authorities. Rigid assurances are needed that changing fashions, mores, and power relationships will not suddenly deprive him of his property, his children, or his life."[18]
>
> Hayek quite properly denied the validity of the quest for perfect certainty, since "complete certainty of the law is an ideal which we must try to approach but which we can never perfectly attain."[19] His anti-perfectionism regarding the rule of the law is also in accord with the anti-perfectionism of Christian social thought in the West.[20] Christianity brought with it a conception of social order which made possible the economic development of the West.[21]

What always threatens the rule of God's law in history is the judge who departs from the Bible-revealed law of God. The judge who substitutes his own wisdom for biblical law or the body of legal opinion

16. F. A. Hayek, *Law, Legislation and Liberty*, vol. 1, *Rules and Order* (Chicago: University of Chicago Press, 1973), pp. 108–109.

17. Hayek, *Constitution of Liberty*, p. 208.

18. Thomas Sowell, *Knowledge and Decisions* (New York: Basic Books, 1980), p. 32.

19. Hayek, *Constitution of Liberty*, p. 208.

20. Benjamin Warfield, *Perfectionism* (Philadelphia: Presbyterian & Reformed, 1958). This is an abridged version of his two-volume study, published posthumously by Oxford University Press in 1931 and reprinted by Baker Book House in 1981.

21. North, *Authority and Dominion*, p. 1340.

derived from it is a threat to biblical civil justice. So is the judge who seeks bribes for rendering judgment that deviates from God's fundamental law and constitutional laws. Bribes pervert justice. It is the court's task to extend justice. Civil justice in turn makes possible capitalism's increase of a society's wealth. The positive sanction of wealth is the outcome of civil justice.

In the period immediately preceding the conquest, Moses revealed this case law, which recapitulates Leviticus 19:15: "Ye shall do no unrighteousness in judgment: thou shalt not respect the person of the poor, nor honour the person of the mighty: but in righteousness shalt thou judge thy neighbour." It recapitulates Deuteronomy 1:17: "Ye shall not respect persons in judgment; but ye shall hear the small as well as the great; ye shall not be afraid of the face of man; for the judgment is God's: and the cause that is too hard for you, bring it unto me, and I will hear it." Its theocentric focus was God's judgment. God is not a respecter of persons when He judges any man. God does not look at the person's class position, money, good looks, or any other distinguishing feature. He does not accept bribes to corrupt His judgment. He looks at His law and the person's thoughts, words, and actions, and He judges the degree to which the person before Him has conformed to or deviated from His law. In other words, God applies His law to historical circumstances. He interprets it and makes assessments in terms of it. *God practices the judicial art of casuistry*. He does not wait until the end of time to render judgment. He renders preliminary judgments in history. As creatures made in His image, men are required by God to do the same: thinking God's thoughts after Him, declaring His law, and applying sanctions in terms of His law. Men are to render righteous judgment. They do this through biblical casuistry.

In our day, biblical casuistry is a lost skill. Worse; it is a skill widely derided as theocratic and therefore illegitimate. This is not merely the opinion of covenant-breakers; it is announced with equal fervor and confidence by Christians: social theorists (few in number since 1700 precisely because of this hostility to biblical casuistry), church leaders, civil leaders, and people in the pews. But there is no escape from the requirements of casuistry. If men do not render judgment in terms of God's fundamental law—the Ten Commandments—and God's biblically revealed constitutional laws, which have extended the Ten Commandments to real-world cases,[22] then they must render

22. R. J. Rushdoony, *The Institutes of Biblical Law* (Nutley, New Jersey: Craig Press, 1973).

judgment in terms of some other law-order. Judges dare not remain silent if social order is to be maintained. Disputes will be settled: in covenantal courts or by clan feuds or on battlefields. Sanctions must be imposed in order to settle disputes. The judicial question is this one: *By what standard*? It was no accident that Rushdoony chose this as the title of his 1959 study of the philosophy of Cornelius Van Til. Van Til had attacked the idea of a common-ground, autonomous, religiously neutral, universal natural law, but he suggested nothing to take its place. Rushdoony concluded that the only biblically valid alternative to natural law theory is theonomy. He did not begin working out the theonomic answers to social, legal, and economic questions until the second half of the 1960s.

D. Sanctions and Inheritance

Verse 20 reads: "That which is altogether just shalt thou follow, that thou mayest live, and inherit the land which the LORD thy God giveth thee." There can be no question about the unbreakable covenantal connection between the law's sanctions and inheritance. The art of rendering biblical judgment is the art of deciding guilt or innocence in terms of biblical law. But this must involve judicial sanctions. To the law are attached sanctions. *The imposed sanctions must fit the violation*. This is the biblical principle of the *lex talionis*: an eye for an eye.[23]

The original context of this principle of justice was abortion: "If men strive, and hurt a woman with child, so that her fruit depart from her, and yet no mischief follow: he shall be surely punished, according as the woman's husband will lay upon him; and he shall pay as the judges determine. And if any mischief follow, then thou shalt give life for life, Eye for eye, tooth for tooth, hand for hand, foot for foot, Burning for burning, wound for wound, stripe for stripe" (Ex. 21:22–25). It is indicative of the contemporary crisis in Protestant thought that legalized abortion did not become the target of widespread Protestant political opposition until several years after the United States Supreme Court handed down *Roe v. Wade* in 1973. But after 1980, a growing minority of evangelicals began to organize against legalized abortion. It was this public issue that dragged Francis Schaeffer into political activism.[24]

23. North, *Authority and Dominion*, ch. 38.

24. Francis A. Schaeffer, *Whatever Happened to the Human Race* (1976); reprinted in T*he Complete Works of Francis A. Schaeffer: A Christian Worldview*, 5 vols. (Westchester, Illinois: Crossway, 1982), V, *A Christian View of the West*, pp. 281–410.

Because there can be no neutral zone in the abortionist's office between a dead baby and a live one, the myth of neutrality is definitively denied in matters of abortion. This inescapable fact of abortion persuaded Schaeffer's son to write *A Time for Anger: The Myth of Neutrality*.[25] Whenever the myth of neutrality fades, the conflict between rival religious world views escalates. The always mythical zones of neutrality between Christianity and humanism are recognized increasingly as being mythical. This pressures Christians and humanists to go their respective ways to develop their respective views of what constitutes a legitimate earthly kingdom. Both sides then seek to use their vision of the kingdom to shape society.

Theocracy is therefore an inescapable concept. It is never a question of theocracy vs. no theocracy. It is a question of which theocracy. The issue of legalized abortion has dragged evangelical Protestants into the political arena, forcing them to abandon their previous pietism-quietism, forcing them to come up with theologically precise answers to the crucial judicial and ethical question: *By what standard*? The moment a Christian raises this question, he must confront the issue of theocracy vs. pluralism, not just in the church and family, but in civil government.[26] This is why the issue of legalized abortion has led Christians to issue manifestos that sound theocratic. They *are* theocratic. They undermine Enlightenment pluralism, which has served as the judicial basis of modern Western society ever since the late eighteenth century. But because modern Christians have embraced Enlightenment pluralism in the name of Christ, there is an inevitable schizophrenia in their manifestoes.[27]

By what standard? Anglo-American Protestants have resisted dealing with this crucial question from an explicitly biblical point of view ever since the end of Oliver Cromwell's Protectorate with his death in 1658, but legalized abortion is now forcing their hand. Peter's injunction is before them: "But sanctify the Lord God in your hearts: and be ready always to give an answer to every man that asketh you a reason of the hope that is in you with meekness and fear" (I Peter 3:15). This hope is more than faith in the world beyond the grave. It is hope that someday, infants will not be deliberately sent to their graves, which include trash bin "dumpsters" located behind the offices of abortionists.

25. Westchester, Illinois: Crossway, 1982.

26. See Appendix H: "Week Reed: The Politics of Compromise."

27. On the unresolved schizophrenia of Francis A. Schaeffer's book, *A Christian Manifesto* (1981), see Gary North, *Political Polytheism: The Myth of Pluralism* (Tyler, Texas: Institute for Christian Economics, 1989), pp. 180–85.

The covenantal issue of sanctions cannot legitimately be separated from the covenantal issue of inheritance. This is obvious in the case of abortion. "Who will inherit?" is the fundamental issue of the death penalty: the earthly one as well as the eternal one. Abortion imposes the death penalty on those who have done neither good nor evil (Rom. 9:11). When abortion is legalized by the civil government, abortionists become agents of the state, for only the state has the right to impose the death penalty. In the name of personal privacy for women, the United States Supreme Court necessarily swore in an army of executioners: mothers, physicians, nurses, and their support staffs. A civil oath—a swearing in—is unofficial and implicit in the authorization of abortion, but it is nonetheless binding. This is why an entire social order is at risk from the judgment of God when it allows its civil representatives to delegate such powers of execution to private citizens. Biblically, these executioners are no longer private citizens; they are agents of the state, which is in turn an agent of the corporate society. As with a citizens' posse that is sworn in by a sheriff, so are the executioners sworn in by the state. Members of a sworn-in posse have a delegated though circumscribed right to kill those who resist their authority. So do abortionists and their assistants in a nation that has legalized abortion. Today, abortionists possess greater judicial immunity from civil action than a posse does.

E. Justice and Positive Sanctions

We return to the issue of positive sanctions: "That which is altogether just shalt thou follow, that thou mayest live, and inherit the land which the LORD thy God giveth thee" (v. 20). The positive sanctions of extended life and land were extensions of the Mosaic seed laws and land laws. These laws were the result of Jacob's messianic prophecy regarding Judah: "The sceptre shall not depart from Judah, nor a lawgiver from between his feet, until Shiloh come; and unto him shall the gathering of the people be" (Gen. 49:10). Seed laws and land laws were laws confined to Israel. They were not cross-boundary laws.[28] The question arises: Were the promises of verse 20 more than extensions of the seed laws and land laws? This raises a subsidiary question: Does this connection between civil justice and personal possessions extend into the New Covenant? That is, was this law a cross-boundary law that applied beyond the borders of Mosaic Israel? Or was it confined historically and geographically to Israel?

28. On the categories of Mosaic law, see Appendix J.

This hermeneutical question raises the issue of covenantal continuity. Meredith G. Kline's dictum regarding the mystery of God's New Covenant historical sanctions comes into play: "And meanwhile it [the common grace order] must run its course within the uncertainties of the mutually conditioning principles of common grace and common curse, prosperity and adversity being experienced in a manner largely unpredictable because of the inscrutable sovereignty of the divine will that dispenses them in mysterious ways."[29] If correct, this would negate the possibility of an explicitly biblical social theory. Christians would have to look either to autonomous nature or autonomous man to provide the predictable sanctions that make possible both social cohesion and social theory. The existence of cross-boundary laws that were binding outside of Mosaic Israel, and are still binding today, is what makes possible Christian social theory.

Is there a principle of continuity between this Mosaic principle and New Covenant law? There is no doubt that the general judicial principle of not respecting persons in judgment is a cross-boundary law. Peter cited this principle in his confession to Cornelius after Peter's vision of the clean and unclean beasts: "Then Peter opened his mouth, and said, Of a truth I perceive that God is no respecter of persons: But in every nation he that feareth him, and worketh righteousness, is accepted with him" (Acts. 10:34). This is a fundamental New Covenant principle.

> For there is no respect of persons with God (Rom. 2:11).
>
> But he that doeth wrong shall receive for the wrong which he hath done: and there is no respect of persons (Col. 3:25).
>
> My brethren, have not the faith of our Lord Jesus Christ, the Lord of glory, with respect of persons (James 2:1).
>
> And if ye call on the Father, who without respect of persons judgeth according to every man's work, pass the time of your sojourning here in fear (I Peter 1:17).

The question, then, relates to the covenantal connection between rendering civil justice and God's external blessings. Did life and land serve as representative blessings for a broader class of blessings? Or were they narrowly circumscribed extensions of Mosaic Israel's seed laws and land laws?

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29. Meredith G. Kline, "Comments on an Old-New Error," *The Westminster Theological Journal*, XLI (Fall 1978), p. 184.

The exegetical problem facing us here is to identify the covenantal basis of the extension of both long life and property ownership into the New Testament economy. I argue that the non-theonomist has the burden of proof to prove discontinuity. But the non-theonomist insists that it is the theonomist's burden to prove continuity. So, for the sake of argument (since I know I can win it in this instance), I shall willingly bear this burden.

The solution is found in Paul's citation of the fifth commandment. "Honour thy father and thy mother: that thy days may be long upon the land which the LORD thy God giveth thee" (Ex. 20:12).[30] Paul wrote: "Children, obey your parents in the Lord: for this is right. Honour thy father and mother; (which is the first commandment with promise;) That it may be well with thee, and thou mayest live long on the earth" (Eph. 6:1–3). The Greek word for *earth* applies to specific geographical locations. Examples: "And thou Bethlehem, in **the land** of Juda, art not the least among the princes of Juda: for out of thee shall come a Governor, that shall rule my people Israel" (Matt. 2:6). "Arise, and take the young child and his mother, and go into **the land** of Israel: for they are dead which sought the young child's life" (Matt. 2:20). The Greek word for land can also refer to the whole earth: "Blessed are the meek: for they shall inherit the earth (Matt. 5:5).[31] The continuity between both the command and specific sanctions of the Mosaic law and New Testament inheritance should be obvious.

Paul's letter to Ephesus was not intended to persuade gentiles that in order to receive long life, church members would have to move to Israel. Yet this would have to be the argument of anyone who denies the covenantal continuity between the promise of long life on the land in the fifth commandment and Paul's citation of this law to strengthen his case regarding the child's obligation to obey his parents.

The most general law governing the case law application of Deuteronomy 16:18–20 was not Jacob's promise that Judah would bear the sword in Israel until Shiloh came (Gen. 49:10). Rather, it was the fifth commandment. Because the fifth commandment and its sanctions extend into the New Covenant era,[32] Deuteronomy 16:18–20 has

30. North, *Authority and Dominion*, 25.

31. Gary North, *Priorities and Dominion: An Economic Commentary on Matthew*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 4.

32. The non-theonomist is in a bind exegetically. The original law is part of the Mosaic covenant: the Ten Commandments. He must argue that the sanctions attached to the fifth commandment, while valid today, do not imply covenantal continuity. But this is refuted by Paul's citation of the entire commandment, including the positive

to be interpreted as a cross-boundary law, not a land law or a seed law. Obviously, it was not a priestly law. This is why we can be legitimately confident that when judges render civil justice in terms of God's revealed law without respect to persons, this will produce the blessing of long life. The enforcement of biblical civil law will also protect private property. The word *land* in this passage represents inherited property in general. In fact, it asserts the right of inheritance.

F. Health and Wealth

Deuteronomy 16:18–20 informs us that *there is a positive economic correlation between honest judgment and life*. First, civil judges who refuse to take bribes or pervert justice thereby secure men's inheritances. Secure inheritances represent a defense of private property, including contracts. Second, judicial respect for private property is the legal basis of free market capitalism. Third, free market capitalism consistently increases per capita wealth. Fourth, increased per capita wealth increases average life expectancy. Long life is a visible blessing which is positively correlated with increased per capita wealth. As a nation's per capita wealth increases, so does the average life expectancy of its residents. So does their general health.[33]

The measurable blessing of increased life expectancy is revealed statistically in decreasing rates for life insurance premiums. Those theologians, such as Kline, who deny any measurable correlation between corporate obedience to God's covenantal law and corporate blessings must demonstrate that decreasing term insurance rates are not correlated to corporate covenantal faithfulness, i.e., external obedience to God's law. They must first deny that the West's increased life expectancy came as a result of widespread adherence to the stipulations to God's law, most notably laws protecting private property (Ex. 20:15), including contract law. Then, second, they must prove it.

The Mosaic law informs us, and the history of the West confirms, that the civil government's enforcement of God's Bible-revealed civil law increases national wealth in the long term. The continuing trust-

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sanctions for obedience. Paul singled out this law as the first law with a promise. He did not call into question the promise, i.e., this law's sanctions. On the contrary, he affirmed the promise.

33. Aaron Wildavsky, *Searching for Safety* (New Brunswick, New Jersey: Transaction, 1988), pp. 58–75; John D. Graham, Bei-Hung Chang, and John S. Evans, "Poorer Is Riskier," *Risk Analysis*, XII, No. 3 (1992). John C. Shanahan and Adam D. Thierer, "How to Talk About Risk: How Well-Intentioned Regulations Can Kill," *Heritage Talking Points*, No. 13 (Washington, D.C.: Heritage Foundation, 1966), p. 14.

worthiness of verse 20's covenantally linked promises—private property, honest judgment, and life—has been verified by the history of the West, especially since the late eighteenth century, when the rule of civil law produced the Industrial Revolution in England, which spread within one generation to the European Continent and the United States. The rule of law was emphasized by Protestantism's concept of individual conscience, self-government, limited civil government, and eschatological future-orientation.[34] Wealth increased steadily as never before in history in response to Protestantism's worldview in the field of economics.

Conclusion

The same covenantal connections linking life, property ownership, and faithful civil judgment are found in the sanction attached to honoring one's parents. Long life (a measurable blessing) in the land (secure inheritance) for honoring parents (a legal stipulation) is affirmed in Exodus 20:14. He who would in any way deny the covenantal link between the stipulations of biblical law and visible, positive, corporate sanctions must deny the continuing validity of the fifth commandment. He must also explain how Paul's citation of the fifth commandment and its sanctions in Ephesians 6:2 does not re-confirm Exodus 20:14. In short, he must apply an antinomian hermeneutic to the New Testament. He must argue for a radical judicial discontinuity between the two covenants, despite the fact that the author of Hebrews twice cited as fulfilled Jeremiah's prophecy that the law will be written in the hearts of men as being fulfilled in the New Covenant (Heb. 8:10–11; 10:16).

Antinomianism is the denial of biblical law and its sanctions in New Testament times. It threatens the judicial inheritance of the West. This, in turn, threatens the economic inheritance of the West: the increasing per capita wealth made possible by free market capitalism. Whether this antinomianism is the scholastic variety, the Lutheran variety, the Reformed variety, or the dispensational variety, the result is the same: the undermining of covenant-keeping men's faith

34. Postmillennialism first appeared in a comprehensive, developed form in the Protestant West in early seventeenth-century Holland, Scotland, and England. See *The Journal of Christian Reconstruction*, VI (Summer 1979), Symposium on Puritanism and Progress. The belief in the possibility of long-term compound economic growth for society did not exist prior to seventeenth-century Puritanism. This positive eschatology was secularized by the Enlightenment in the next century. Robert A. Nisbet, "The Year 2000 And All That," *Commentary* (June 1968).

in the positive corporate results of corporate covenantal faithfulness. This loss of faith then undermines the development of an explicitly biblical social theory, including economics.

41

ISRAEL'S SUPREME COURT

If there arise a matter too hard for thee in judgment, between blood and blood, between plea and plea, and between stroke and stroke, being matters of controversy within thy gates: then shalt thou arise, and get thee up into the place which the LORD *thy God shall choose; And thou shalt come unto the priests the Levites, and unto the judge that shall be in those days, and enquire; and they shall shew thee the sentence of judgment: And thou shalt do according to the sentence, which they of that place which the* LORD *shall choose shall shew thee; and thou shalt observe to do according to all that they inform thee: According to the sentence of the law which they shall teach thee, and according to the judgment which they shall tell thee, thou shalt do: thou shalt not decline from the sentence which they shall shew thee, to the right hand, nor to the left. And the man that will do presumptuously, and will not hearken unto the priest that standeth to minister there before the* LORD *thy God, or unto the judge, even that man shall die: and thou shalt put away the evil from Israel. And all the people shall hear, and fear, and do no more presumptuously.*

DEUTERONOMY 17:8–13

The theocentric focus of this law is God's office as a judge. God is the final Judge.[1] As in the case of the previous chapter, this one seems to relate more to sanctions: point four.[2] As we shall see, however, the passage deals with a particular judicial issue: *jurisdiction*. This is the issue of boundaries: point three.[3]

1. The final negative sanction is eternal death (Rev. 20:14–15).

2. Ray R. Sutton, *That You May Prosper: Dominion By Covenant*, 2nd ed. (Tyler, Texas: Institute for Christian Economics, [1987] 1992), ch. 4. Gary North, *Unconditional Surrender: God's Program for Victory*, 5th ed. (Powder Springs, Georgia: American Vision, 2010), ch. 4.

3. Gary North, *Boundaries and Dominion: An Economic Commentary on Leviticus*, 2nd ed. (Dallas, Georgia: Point Five Press, [1994] 2012).

A. Church and State

The settlement of disputes between men is supposed to reflect the final settlement of disputes between God and man. In God's court, there will be a final settlement. Every case will be brought to a conclusion. There will be either reconciliation or permanent separation between the Judge and the judged.

The office of priest—he who offers sacrifices as man's representative—ended in A.D. 70.[4] The question is: Has the ecclesiastical minister replaced the priest? Does the church still possess authority in supplying representatives who hand down civil judgments? This is the crucial covenantal question that this chapter must answer. If the answer is yes, then the absolute judicial separation of church and state is a false Enlightenment myth.

God's authority on the throne of judgment is unitary in the sense of His unified being (Deut. 6:4). Yet this authority is also plural: "let us" (Gen. 1:26; 11:7). God's court reflects God's being: both one and many. A human court is not God's heavenly court, yet it must reflect the one and the many of God's heavenly court. The equal ultimacy of the one and the many cannot be achieved through ontology: unified being. It must therefore be achieved subordinately, i.e., representatively. This is why, in Israel's supreme court, both church and state were represented. Israel's voice of civil authority at the highest level was not legitimate if it was restricted to civil magistrates.

B. A Question of Jurisdiction

No social order can survive without civil sanctions. Under the biblical civil covenant, these sanctions are exclusively negative. The state is not a supplier of positive sanctions except in its capacity as the judge of those who have committed crimes whose proper sanction is restitution. The state then transfers wealth from the criminal to the victim. But the state is not the source of the positive sanctions showered on the victim; it is only the arbitrator. It compels the law-breaker to return to the victim that which lawfully belongs to the victim, including compensation for his suffering and the statistical risk he bore of not discovering who had committed the crime.[5] Normally, this requires double restitution (Ex. 22:4). In short, the state is the lawful

4. This, of course, is a Protestant interpretation of the office.

5. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 3, *Tools of Dominion* (1990), ch. 43:C.

enforcer. It possesses a God-given, covenantal monopoly of violence in order to enforce justice (Rom. 13:1–7).[6]

In Deuteronomy 17:8–13, Moses presented a case law application of the general principle of the hierarchy of covenantal judgment. In Exodus 18, he set up a system of appeals courts.[7] Here he made an application of the general law of appeals. Two men have come into a local court. They are equals in influence. This makes the case too difficult for a local court to judge. "If there arise a matter too hard for thee in judgment, between blood and blood, between plea and plea, and between stroke and stroke, being matters of controversy within thy gates: then shalt thou arise, and get thee up into the place which the LORD thy God shall choose" (v. 8). The case was to be transferred to a higher court in which the judges were not part of the local community. In modern law, this is called a *change of venue*. The Mosaic law acknowledged that in difficult cases between prominent persons, each with his own supporters, each with a strong case, local judges may not be qualified to render judgment. The cases are too hard. This is the language of Exodus 18: "And they judged the people at all seasons: the hard causes they brought unto Moses, but every small matter they judged themselves" (v. 26).

The mandated solution was to assemble a group of judges, civil and ecclesiastical, to consider the case. There is no question that Moses was here describing a civil dispute. The mandatory sanction for disobedience to the supreme court was execution. The church in Israel did not possess the power of the sword except in defending against trespassers of the boundaries around the tabernacle (Num. 18:3, 22). All of Deuteronomy 17 deals with civil law, but ecclesiastical judges played a role in the legal process.

This court's decision was final. It had to be obeyed. Nevertheless, there is no indication that the case in question had been a matter of capital sanctions prior to the court's final judgment. But once this court had declared final judgment, both participants had to obey. The person who was declared guilty had to follow the directive of the court. He was not executed, which means that this was not a capital infraction. But contumacy—presumptive resistance to the supreme court—was a capital offense.

This indicates that the supreme court's word was judicially repre-

6. Gary North, *Cooperation and Dominion: An Economic Commentary on Romans*, 2nd ed. (Dallas, Georgia: Point Five Press, [2001] 2012), ch. 11.

7. North, *Authority and Dominion*, Part 1, *Representation and Dominion* (1985), ch. 19.

sentative of God's word. Its word was final in history. But this word was not exclusively civil or ecclesiastical. It was both. The judge, as a representative of the civil covenant, declared his judgment only in association with the priests. There had to be a united declaration. This kept the state from becoming judicially autonomous. Similarly with the church: the priests had no lawful way to enforce their judgment physically without the cooperation of the civil magistrate. *Autonomy was not a legitimate option at the highest judicial level.*

This joint declaration of judgment was analogous to a joint declaration of war. The two silver trumpets had to be blown by the Aaronic priests before the princes could lead the nation into battle. One trumpet was blown initially to assemble the princes. Not until both were blown by the priests was the princes' decision to go into battle ratified (Num. 10:1–9).[8] Church and state had to agree to the war.

Any party in the civil dispute who rebelled against the terms of the joint declaration faced death. What had been a matter to be solved by economic restitution now moved to a new level of criminality. It moved from *restitution through money* to *restitution through execution*. The resisting party was to be delivered into God's heavenly court for final sentencing. Certain acts demand that the convicted criminal be transferred to God's court. One of these acts was resistance to a final determination by Israel's supreme court.

The cost of law enforcement in this case was borne by the civil government. The civil government had a cost-effective means of reducing resistance to its official decisions: the threat of execution. The resisting party had considerable incentive to count the cost of his non-compliance. This cost was very high: his permanent removal from the jurisdiction of any man's court.

The formal declaration by the supreme court moved the dispute from man's word to God's word. The person who resisted coming to terms with his opponent prior to the supreme court's declaration could say to himself: "I'm not going to comply. I don't have to comply." But the word to which he had not had to comply was the word of another individual. There had not yet been a covenantal declaration. But after the court made its final judgment, the threat of the most permanent civil sanction was inserted into the actor's cost-benefit analysis. He was no longer facing man's word; he was facing God's. He was therefore no longer facing an individual's sanctions, such as

8. Gary North, *Sanctions and Dominion: An Economic Commentary on Numbers*, 2nd ed. (Dallas, Georgia: Point Five Press [1997] 2012), ch. 2:A.

the other party's refusal to trade with him in the future. The negative sanction had moved from economics to life itself.

C. An Increase in Predictability

Whenever this sanction was consistently imposed within the boundaries of Israel, the Israelites would have found that their lives had become more predictable. The law would have been taken seriously by everyone. An execution or two every few years would have sent a very clear message to all Israel regarding the costs of resistance to the law. This was the intent of this law: "And all the people shall hear, and fear, and do no more presumptuously" (v. 13).

When large numbers of people fear the civil law, their actions become more predictable whenever the courts are predictable. The law becomes more predictable when the courts become more predictable. An increase in the predictability of the law reduces the costs of decision-making. People know generally what the law requires. They also know that the judges will impose the specified sanctions attached to the law. The last remaining element of uncertainty is the reaction of the guilty party. Will he comply with the court's declaration? This case law made it clear: God expected the guilty party to comply. God expected the state to see to it that the guilty party complied. The person who refused to comply with the court's declaration would not get another opportunity to break any law.

Israel's solution to the settlement of private disputes was very different from Athens' solution. In private disputes, the Athenian court did not enforce its judgments unless there was a matter of state concern involved. The matter was turned over to the victorious party for enforcement.[9] Justice was available, but only to families strong enough to enforce the court's decision.

With greater legal predictability, society reduces its costs of production. When men know what the law requires, and when they know that convicted law-breakers in the society have a great incentive to comply, they can more easily predict the actions of others. This increases the predictability of other decision-makers in society. This in turn decreases the cost of cooperation. One of the most familiar laws of economics is this: *when the cost of production of something is reduced, more of it will be supplied*. Producers see an opportunity to make a profit: by increasing production, they can take advantage of the

9. G. Glotz, *The Greek City and its Institutions* (New York: Barnes & Noble, [1929] 1969), p. 249.

newly discovered difference between production costs and consumer prices. By reducing the cost of predicting other people's actions, this law, including its specified capital sanction, would have tended to increase the output of labor in Israelite society. This would have increased the wealth of those living under the Mosaic law's jurisdiction. By reducing the likelihood that others would refuse to comply with the law, this law increased the likelihood that men would honor their promises. This would also have increased the value of contracts. A contract is an agreement that increases the predictability of other people's actions in the future. The greater the expected value of a contract, the more people who will seek out others to deal with.

This leads to a very important principle of Christian economics: predictable covenantal law and covenantal sanctions undergird the humanly unplanned development of a contractual society. The *covenantal basis of contract law* is manifested in this case law. The threat of execution for non-compliance with the state's interpretation of what a contract requires will increase the likelihood that men will take care in drafting their contracts and complying with their terms.

There is nothing in the New Covenant that annuls this principle of civil court authority. There is no New Covenant principle that authorizes reduced civil sanctions for non-compliance with the supreme court's decision. There is nothing that changes the specified sanction. In fact, the severity of the specified sanction is what demonstrates the supreme authority of the court. *To reduce the sanction is to undermine the authority of the supreme court*. Any argument on the part of non-theonomists that the New Covenant has nothing to say about such matters is implicitly an undermining of civil authority and therefore a subsidy to criminals. In any case, if the New Covenant really has nothing to say about such judicial matters, then the consistent New Covenant theologian should excuse himself from the discussion. He has nothing to say, for the New Covenant supposedly has nothing to say. On the whole, Christians in the West have willingly excused themselves from such discussions since about 1700, which is why social theory, criminal law, and politics have become battlegrounds between left-wing Enlightenment humanists and right-wing Enlightenment humanists.

Why this silence by Christians? Perhaps because they have recognized the underlying theocratic nature of this law and all civil law. This Mosaic law had an important qualification: Israel's supreme civil court was neither wholly civil nor wholly ecclesiastical. The supreme court's authority to enforce its word was legitimate only because this

decision of the civil judges came only after consultation with, and the support of, the priests.

D. The Priests the Levites

The phrase in verse 9, "the priests the Levites," first appears in the Bible in this verse. If we are to understand the scope of this law, we must understand the meaning of this phrase. In Deuteronomy 18, we are given a clearer picture of who these priests-Levites were. They were those Levites who served as tabernacle-temple priests. They had to reside in the city where the tabernacle was located. They were not Levites who lived in local communities. The priests officiated at the sacrifices (Deut. 18:1–8). This means that these priests held sacramental offices. They were ordained to special ministerial office, which required them to be present at the altar. In some cases, they actually sold their real estate in their home cities: "They shall have like portions to eat, beside that which cometh of the sale of his patrimony" (Deut. 18:8).

The presence of priests on the nation's supreme civil court gave veto power to the church. *The supreme representative function of the supreme court could not lawfully be exclusively civil*. The civil oath did not authorize exclusive judicial authority at the highest level, i.e., the final court of appeal. This balance of authority served as a check on the state. The state's agents could not unilaterally declare God's law in the most difficult cases that divided men.

E. Separation and Inheritance

The permanent separation of covenant-breakers from God at the final judgment leads to a transfer of inheritance: from the guilty parties to the innocent victims. The New Heaven and New Earth in its post-final judgment, consummated form will be inhabited solely by covenant-keepers (Rev. 21:1–4; 7–8). This model of final inheritance/disinheritance is the judicial basis of the prophecy that the righteous will inherit the earth in history. "For evildoers shall be cut off: but those that wait upon the LORD, they shall inherit the earth. For yet a little while, and the wicked shall not be: yea, thou shalt diligently consider his place, and it shall not be. But the meek shall inherit the earth; and shall delight themselves in the abundance of peace" (Ps. 37:9–11). *History will reflect the outcome in eternity*.

The postmillennial implications of these passages are obvious. Amillennialism's theory of history as a permanent stalemate between

covenant-breakers and covenant-keepers, with the church in permanent remnant status, or the church as progressively under oppression,[10] is contradicted by Isaiah's prophecy concerning the historical manifestation of the New Heaven and New Earth, in which, unlike the scene in Revelation 21:4, death will still exist. Isaiah 65:17–23 presents a promise of permanent inheritance, in which righteousness is the basis of inheritance, and therefore disinheritance by covenant-breakers is no longer a threat.[11]

The progressive transfer of inheritance in history will resemble Egypt's transfer of wealth to the Israelites at the exodus. The inheritance of the Egyptians' firstborn sons was transferred to God's firstborn son, Israel. This is normative for history. So far, it has not been normal because of the repeated apostasy of the church, but that which has been normal in the past is not that which is normative. It is also not a permanent condition.

There were a few cases under the Old Covenant in which there was no inheritance by Israel, where disinheritance was absolute. God imposed total destruction on a few cities. Sodom and Gomorrah are the archetypes. Lot did not inherit the wealth of Sodom. Arad's cities were totally destroyed by Israel (Num. 21:3). Jericho was totally destroyed (Josh. 6:24). Saul lost his kingship because he refused to destroy Amalek totally (I Sam. 15:35; 16:1). But in the vast majority of cases in the conquest of Canaan, Israel inherited the capital assets of the defeated nations. This was part of God's original plan of inheritance: it was to be achieved through the disinheritance of covenant-breakers. "And it shall be, when the LORD thy God shall have brought thee into the land which he sware unto thy fathers, to Abraham, to Isaac, and to Jacob, to give thee great and goodly cities, which thou buildedst not, And houses full of all good things, which thou filledst not, and wells digged, which thou diggedst not, vineyards and olive trees, which thou plantedst not; when thou shalt have eaten and be full…" (Deut. 6:10–11). Solomon later summarized this process: "A good man leaveth an inheritance to his children's children: and the wealth of the sinner is laid up for the just" (Prov. 13:22).[12]

10. Gary North, *Millennialism and Social Theory* (Tyler, Texas: Institute for Christian Economics, 1990), pp. 76–94.

11. Gary North, *Restoration and Dominion: An Economic Commentary on the Prophets* (Dallas, Georgia: Point Five Press, 2012), ch. 15.

12. Gary North, *Wisdom and Dominion: An Economic Commentary on Proverbs*, 2nd ed. (Dallas, Georgia: Point Five Press, [2007] 2012), ch. 41.

F. New Testament Applications

The New Testament equivalent of the priest-Levite is the ordained church officer who has the right to administer the sacraments and to restrict unauthorized people's access to the sacraments. This officer holds the keys to the kingdom (Matt. 16:19). He has the authority to declare people excommunicate. That is, he lawfully can exercise judgment with respect to a man's eternal inheritance. To the extent that inheritance in history is correlative to inheritance in eternity, he possesses the right indirectly to determine inheritance in history.

1. Inheritance in History

The biblical covenant makes it clear that the righteous will inherit in history. This historical outcome is denied by pessimillennialists. This is another reason why point five—eschatology—influences point four: sanctions. It also influences point two: hierarchy. This is why the modern Christian is not really neutral regarding the continuing authority of Mosaic law. He does not really believe that the New Testament has nothing to say about this, despite his initial assurances to the contrary. He insists that the New Testament has abolished all traces of the Mosaic civil law, or at least all those traces that call into question the Enlightenment's theory of religiously neutral civil law and political pluralism, which he devoutly accepts.[13] He rejects point five of the biblical covenant, and therefore he rejects points two and four: the suggestion that a minister of the sacraments has any lawful advisory and veto function in a civil court. He sides with the humanists in a joint effort to deny that the church has any legitimate official authority in civil judgments. Prior to 1650, such a joint declaration would have been considered unthinkable in the West outside of the tiny New England commonwealth of Rhode Island.

The most important church council in history was the Council of Nicea, held in 325. It settled for all time the question of the divinity of Jesus Christ. To deny Christ's equality with God is to deny the Christian faith. The church has accepted this declaration ever since. Yet this international ecclesiastical assembly was called to serve by the Emperor Constantine, who wanted this issue settled. It got settled theologically at the Council of Nicea, although it was not settled militarily and socially for several centuries.[14]

The Westminster Assembly first met on July 1, 1643. The British

13. See Appendix H: "Week Reed: The Politics of Compromise."
14. The invading Ostrogoths were Arians.

Parliament, in its rebellion against King Charles I, had called for the Assembly in the previous November. Parliament, not the Anglican Church, which opposed Parliament, chose the Assembly's representatives. *The Westminster "divines" were in fact political appointees.* The Assembly was advisory to the Parliament. The members were paid by Parliament to attend.[15] The Westminster Assembly ratified Parliament's authority by putting the following declaration into the Confession: the civil magistrate "hath power to call synods, to be present at them, and to provide that whatsoever is transacted in them be according to the mind of God."[16] This passage was removed by the American Presbyterian Church in the revision of 1787–88, at the same time that the United States Constitution was being ratified. The Whig view of the separation of church and state was ratified in both constitutional documents: by the removal of a section in the ecclesiastical covenant, and by the inclusion in the civil covenant of a prohibition against religious test oaths for Federal office-holding.[17]

2. The Protestant Solution: Abdication

The modern Protestant is a child of the Enlightenment in his political outlook. The political religious pluralism which was regarded as heretical by the church, East and West, for 1700 years is today universally accepted by Protestants as somehow innately Christian and, in the words of unitarian skeptic Thomas Jefferson, "self-evident." The modern secular state has issued its declaration of independence from God, and American Protestants have not only agreed, they have hailed this as the very work of God in history, their source of liberation. No one has put it any more starkly than former Presidential aide and convicted felon (pre-conversion) Charles Colson: "Thus two typically mortal enemies, the Enlightenment and the Christian faith, found a patch of common ground on American soil."[18] He regarded this as a great breakthrough in civic freedom. As one of modern American evangelicalism's most respected figures, Colson's opinion is representative.

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15. Gary North, *Crossed Fingers: How the Liberals Captured the Presbyterian Church* (Tyler, Texas: Institute for Christian Economics, 1996), Appendix C.

16. Westminster Confession of Faith (1646), XXII:3.

17. Article VI, Section III. See Gary North, *Political Polytheism: The Myth of Pluralism* (Tyler, Texas: Institute for Christian Economics, 1989), pp. 385–91.

18. Charles Colson, *Kingdoms in Conflict* (1987), p. 119. This book was jointly published by William Morrow, a secular publishing firm, and Zondervan Publishing House, a fundamentalist publishing firm.

In the best-selling popular history of colonial America, *The Light and the Glory*, two Protestant authors wrote of "the divine origin of its [the Constitution's] inspiration. . . ."[19] Furthermore, "it is nothing less than the institutional guardian of the Covenant Way of life for the nation as a whole!"[20] Yet they recognized that it is "a secularizing of the spiritual reality of the covenant. It can thus never be the substitute for a covenant life totally given to the Lord Jesus Christ."[21] This should be obvious to any Christian. But their statement is also covenantally incomplete. The crucial question is this: What is the New Covenant basis of the *civil* covenant in "a covenant life totally given to Jesus Christ"? The two authors did not raise this question, for the question no longer occurs to modern American Christians, even among those few who adopt the word "covenant." Yet the father of one of the authors served as Chaplain of the United States Senate, and later became the posthumous subject of a best-selling book and a Hollywood movie.[22] The "covenant life totally given to Jesus Christ" is arbitrarily confined to three spheres: personal, ecclesiastical, and familial. Without any supporting exegesis of the Bible, American Protestants for over two centuries have assumed that the civil covenant has no legal connection to Christ, and should not.

Meanwhile, the United States Supreme Court has outlawed public prayer in tax-funded schools (1963), as well as the teaching of creation in these schools (1991). It has legalized abortion on demand in the name of a woman's right to privacy (1973). Christian political activists who oppose all three decisions seem to think that these decisions were in no way connected to the United States Constitution's declaration of covenantal independence from God and the church in 1788. The secularization of the Supreme Court, they believe, has nothing to do with the actual wording of the Constitution. Christian activists today suffer from near-terminal naiveté.

Protestantism has accepted of the Enlightenment's doctrine of pluralism. Roman Catholicism laid the foundations for this capitulation by its acceptance of Stoic natural law theory by way of Aristotle. Scholasticism's acceptance of Aristotelian logic set the precedent. The Reformers offered no substitute, and by the mid-seventeenth

19. Peter Marshall and David Manuel, *The Light and the Glory* (Old Tappan, New Jersey: Revell, 1977), pp. 343–44.

20. *Ibid.*, p. 348.

21. *Idem*.

22. Catherine Marshall, *A Man Called Peter: The Story of Peter Marshall* (New York: McGraw-Hill, 1951).

century, late-medieval scholastic categories of politics were imported into the Presbyterian tradition. The footnotes in Samuel Rutherford's *Lex, Rex* (1644) are filled with references to members of the Dominicans' school of Salamanca. These men were brilliant jurists, as well as economists who pioneered concepts of free pricing, monetary theory, and interest as a time-based phenomenon that were in some ways superior to Adam Smith's theories over two centuries later.[23] Their epistemology was rationalist, as Scholasticism always was.

In the same year that *Lex, Rex* was published, Roger Williams' *Bloudy Tenant of Persecution* appeared. His defense of religiously neutral civil government so appalled Parliament that they ordered all copies burned. It was based on natural law theory. But before the book appeared, Williams had secured a Parliamentary charter for Rhode Island that allowed him to conduct an experiment in his theory of neutral civil government.[24] That "lively experiment" in polity a century and a half later conquered the colonial American mind.

Without a state church, early modern era Protestants saw no way to secure a voice in civil affairs that Christian political theory had demanded for seventeen centuries. The rise of Oliver Cromwell in 1644 as the military master led to the extension of liberty of worship to all Protestant sects. The Independents would not tolerate an intolerant state church. Scottish Presbyterianism's attempt to secure such a monopoly[25] was anathema to them. Cromwell's victory made impossible the Presbyterians' demand for a state church. The restoration of Charles II to the throne in 1660 did not reverse this toleration, although the King imposed the Act of Uniformity in 1662, which led to the departure of 2,000 Puritan ministers from their pulpits.

Who should represent the church in the civil courts? This question has had no answer in Protestant nations since the late seventeenth century. Which ministers should be eligible to serve? Which groups calling themselves churches should be eligible to serve? This was no problem for Mosaic Israel, which had only one lawful priesthood.

The correct answer—"ministers of churches that affirm an historic Trinitarian creed"—was too narrow for Enlightenment humanists and Protestant Independents, and too broad for the Presbyterians. Protestants have been deadlocked since the seventeenth century. The

23. Murray N. Rothbard, *Economic Thought before Adam Smith: An Austrian Perspective on the History of Economic Thought* (Brookfield, Vermont: Elgar, 1985), ch. 4.

24. Edwin Scott Gaustad, *Liberty of Conscience: Roger Williams in America* (Grand Rapids, Michigan: Eerdmans, 1991), p. 85.

25. See Jane Lane, *The Reign of King Covenant* (London: Robert Hale, 1956).

result has been the progressive secularization of the United States' civil order: from Scholastic natural law theory to Newtonian natural law theory to Madison's grand experiment, a Constitution stripped of any theory of law. In the opinion of the Framers, the preservation of liberty is a matter of technique rather than ethics: designing proper institutional checks and balances in the allocation of political power. But these checks and balances have steadily fallen prey to the sovereignty of the Supreme Court, which the Constitution's authors regarded as the least powerful branch of the Federal government, but which has become the most powerful. The Supreme Court renders final judgment—point four—on the legality of what the other two branches do. The Court therefore has become the voice of authority: point two.[26]

In Mosaic Israel, the supreme court could not represent one covenant; it had to represent two: church and state. This is the system of checks and balance announced by God through Moses, but modern man, both Christian and non-Christian, regards the Mosaic judicial settlement as a source of tyranny. Judicial checks and balances are seen today exclusively as intra-civil government matters—national, state, and local—but never as matters of inter-government relations, i.e., civil and ecclesiastical.

3. A Royal Priesthood

The New Covenant, like the Old Covenant, rests on an oath of loyalty: allegiance to God. There are four areas where this covenant oath seals a legal bond: personal, ecclesiastical, familial, and civil. The modern Christian generally acknowledges the legitimacy of the first three covenantal Trinitarian oaths, but as a loyal son of the Enlightenment, he denies the fourth.

If the fourth covenant were honored, this principle would become a judicial reality: he who is not sealed by covenant oath (point four) may not lawfully exercise covenantal authority (point two) to interpret the law (point three) invoking and applying covenant sanctions (point four). To declare covenant sanctions is to affect the inheritance (point five) in God's name (point one). Only those who are under the covenant through an oath possess this authority. The political questions become: Whose covenant? Whose oath?

To gain the eternal blessings of God, a person must swear a personal covenant oath to the God of the Bible, whose Son and Mes-

26. North, *Political Polytheism*, ch. 10.

siah is Jesus Christ. To gain the blessings of the sacraments, a person must come under the authority of the institutional church. To gain the blessings of a Christian marriage, a person must have sworn oaths one and two. So also with biblical citizenship. But this is denied by most Christians today. They are sons of the Enlightenment.

Biblical citizenship, above all, is the *authority to become a judge*, either through membership in the military or as a judge. A judge includes the office of voter and the office of juror. He who is not a citizen may not vote or serve on a jury. If he has not sworn a loyalty oath to the state, he is not a citizen. If he has not also sworn the first two oaths—personal and ecclesiastical—he is not to become a citizen in a biblical commonwealth.[27]

The connection between the Mosaic covenant's theory of priestly participation in the supreme court and a modern nation's supreme court is this: there must be representatives of Trinitarian churches on the nation's supreme civil court. But what about Israel's local courts? The priests served there, too (Deut. 19:17).[28] This indicates that priests were sent by the temple-officiating priesthood to serve in local communities as co-judges.

The officiating Mosaic priests were centrally located. The place of sacrifice became their temporary home. This is no longer the case. There is no central place of sacrifice. But there is a central place where the supreme civil court meets. This is in part a matter of tradition, at least for now, but it is also a matter of personalism. There is more to courts than the formal gatherings of court's judges.

The New Testament's covenant oath is priestly. The promise of Exodus 19:6 has been fulfilled:

> And ye shall be unto me a kingdom of priests, and an holy nation (Ex. 19:6a).

> But ye are a chosen generation, a royal priesthood, an holy nation, a peculiar people; that ye should shew forth the praises of him who hath called you out of darkness into his marvellous light: Which in time past were not a people, but are now the people of God: which had not obtained mercy, but now have obtained mercy (I Peter 2:9–10).

27. The Enlightenment attacked this doctrine of oath-bound Christian citizenship. Humanists sought the legal authority to impose civil sanctions on Christians in the name of another God: autonomous man. They did not wish to live inside the boundaries of God's Bible-revealed law. So, they created a theory of political citizenship which invokes a loyalty oath only to the state—a state devoid of any Trinitarian demarcation. Their theory of citizenship is today universally accepted by Protestantism and American Catholicism.

28. Chapter 45:E.

Peter's language is important for political theory. The New Covenant's priestly status is royal, i.e., kingly. The Protestant Reformation's doctrine of "every man a priest," i.e., every *redeemed* person a priest, is an extension of part of Peter's declaration. But the Reformation did not affirm the parallel doctrine: every redeemed person a king. This was a major theological and social omission. This political principle implies universal civil suffrage among adult church members. Tentative beginnings of this doctrine arose only in the next century, particularly during the English Civil War (1642–49). The sect known as the Levellers wanted to extend the vote to all male rate-payers in church or state.[29]

The covenantal basis of both doctrines was announced by Peter: *every redeemed, covenantally bound person is both a priest and a king*. This does not deny the fact that there are still ordained officers in church and state who exercise greater authority than those whom they represent. Hierarchy is an inescapable aspect of the covenant. So is ordination. But the concept of the priestly-kingly believer in Christ leads to the concept of *covenant ratification* in both spheres: church and state. Members of churches and citizens of states lawfully possess the veto. On regular occasions, a majority of them must be allowed to extend positive sanctions to a representative, thereby imposing negative sanctions on his rivals. The bottom-up authority of the covenant matches its top-down authority. *Without the imposition of covenant sanctions, there can be no covenantal representation*. Ordained representatives must truly represent both parties to the covenant: God and man. Both God and man must authorize an office-holders' continuing possession of authority. Officers of both church and state must be held responsible by those whom they represent. Leviticus 4 set forth a sacrificial structure that established this judicial principle: *God holds a nation's citizens corporately responsible for the sins of their representatives, both ecclesiastical and civil.*[30] How, then, are the people to sanction civil representation? Democratic politics is a consistent application of Peter's announcement. The political question then becomes: Who has lawful access to the exercise of the vote? The New Covenant's answer is this: "Those who are under oath-bound covenantal sanctions to the Trinitarian God of the Bible in both church and state."

29. William Haller, *Liberty and Reformation in the Puritan Revolution* (New York: Columbia University Press, 1955), p. 325. "Leveling" did not refer to property ownership. It referred to right to vote. The Diggers and the Fifth Monarchy men were the communists of the English Civil War era.

30. Gary North, *Boundaries and Dominion: An Economic Commentary on Leviticus*, 2nd ed. (Dallas, Georgia: Point Five Press, [1994] 2012), ch. 4.

The priesthood of all believers secures the priestly status of every jury and every court whose members are all members in good standing of Trinitarian churches. Then why doesn't this principle of the universal priesthood solve the judicial problem of church-state relations at the level of the supreme court? Why is there still a necessity of a mixed court containing judges and sacramental officers? Because of the principle of checks and balances. *There must be a division of authority*. In every supreme court that lawfully imposes physical sanctions, there must be representation of the church. Someone who has the right to declare a person excommunicate must have a veto power on every supreme civil court. The civil authority must not assert its own exclusive counsel at the highest level. The checks and balances necessary to restrict civil government from becoming tyrannical must include a veto in the possession of sacramental officers. This is the message of Deuteronomy 17:8–12.

Conclusion

Israel's supreme civil court was to include representatives of two covenants: civil and ecclesiastical. This law authorized the priests to veto the decision of a judge. The law speaks of a joint declaration: "According to the sentence of the law which they shall teach thee, and according to the judgment which they shall tell thee, thou shalt do." This law brought the power of the civil government in support of contracts. The threat of execution for one's refusal to adhere to the court's declaration placed the rebel under severe pressure to conform. This would have increased the predictability of the marketplace. Disputes over the interpretation of contracts would have ended with the supreme court's judgment.

This law brought contract law under the authority of the civil courts, which had jurisdiction over contracts. *Contract law was not an extension of the state, but it was under the authority of the state*. Yet, in the Hebrew commonwealth, the state had no final jurisdiction. The joint declaration of representatives of church and state kept the institution from attaining final authority in civil law. *No aspect of biblical law is more hostile to Enlightenment political philosophy than Deuteronomy 17:8–13*. The doctrine of the separation of church and state was from the beginning an attempt to create a monopoly of violence for the civil government by revoking the church's veto of the civil magistrate at the highest judicial level. Marxian Communism was one product of Enlightenment political philosophy: left-wing Enlightenment hu-

manism.[31] The extension of the United States Constitution's secular roots by the United States Supreme Court after 1960 was another: right-wing Enlightenment humanism.[32]

31. Gary North, *Marx's Religion of Revolution: Regeneration Through Chaos* (Tyler, Texas: Institute for Christian Economics, [1968] 1989).
32. North, *Political Polytheism*, ch. 10.

42

BOUNDARIES ON KINGSHIP

When thou art come unto the land which the LORD *thy God giveth thee, and shalt possess it, and shalt dwell therein, and shalt say, I will set a king over me, like as all the nations that are about me . . .*

DEUTERONOMY 17:14

The theocentric focus of this law is God's office as King of kings.

A. God's Sovereignty and Israel's King

This was a land law.[1] It governed the office of king, an optional office in Old Covenant Israel. This biblically authorized office has not existed since the fall of Jerusalem in A.D. 70. In fact, it has not existed in history since the exile. Men have called themselves kings, and they have acted as kings, but they have not been legitimate, in the same sense that neither priest nor prophet has been legitimate. All three Old Covenant offices were completed by Christ and annulled.

Moses' assumption here was that Israel would conquer the land of Canaan. There was a strong element of prophecy: predictions accompanied by ethical commands. The laws governing kingship in Israel assumed that Israel had already conquered the land. This is another instance in the Bible where *grace precedes law*, which is a fundamental principle of God's covenantal dealings with men. God would give them a military victory comparable to their deliverance out of Egypt. This victory would then serve as the historical basis of kingship. *Without prior grace, there would be no earthly king over* Israel. The very presence of an earthly king in Israel was supposed to remind them of the visible grace of God in history. Only because God is the sov-

1. On land laws, see Appendix J.

ereign master over history and the deliverer of His people in history could the Israelites ever set a king over themselves. The Israelites' mandatory presupposition of earthly kingship was supposed to be the absolute sovereignty of God over history. The Mosaic doctrine of kingship rested on this doctrine: *Israel's true king was God*. This was the theocentric focus of the kingship laws.

The Mosaic law provided for the establishment of kings in Israel. This is not to say that God required kingship in Israel. He did not. Israel broke these kingship laws when the people demanded a king four centuries later. Their motivation was not theocentric; it was humanistic. Samuel reminded them of the theocentric focus of Israel's kingship: God's gracious deliverance. "And ye have this day rejected your God, who himself saved you out of all your adversities and your tribulations; and ye have said unto him, Nay, but set a king over us. Now therefore present yourselves before the LORD by your tribes, and by your thousands" (I Sam. 10:19). God had revealed to Samuel that the Israelites were substituting a new covenant. This new covenant necessarily involved the rejection of the God of the Mosaic covenant: "And the LORD said unto Samuel, Hearken unto the voice of the people in all that they say unto thee: for they have not rejected thee, but they have rejected me, that I should not reign over them" (I Sam. 8:7).

God told Samuel to do what they asked. God gave them enough rope to hang themselves. He told His prophet to go along with them, anointing the new king in God's name. There would be four kings over Israel's united kingdom, but early in the reign of the fourth king, Rehoboam, there was a revolt which divided Israel into two kingdoms (I Kings 12).[2] This, too, was part of God's covenantal order: He visits the iniquity of the fathers unto the third and fourth generation of those who hate Him (Ex. 20:5).[3] The glory of the Davidic kingdom and the wealth of Solomon's kingdom were aspects of God's covenantal curse on Israel: magnificent rope for a national hanging. "And it shall be, if thou do at all forget the LORD thy God, and walk after other gods, and serve them, and worship them, I testify against you this day that ye shall surely perish. As the nations which the LORD destroyeth before your face, so shall ye perish; because ye would not

2. Gary North, *Disobedience and Defeat: An Economic Commentary on the Historical Books* (Dallas, Georgia: Point Five Press, 2012), ch. 20.

3. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 2, *Decalogue and Dominion* (1986), ch. 22.

be obedient unto the voice of the LORD your God" (Deut. 8:19–20).[4] *When they demanded a king, they began a journey into covenantal disobedience that led to Babylon*. When they returned from the exile, they never again had an Israelite as a king. Final civil authority was imposed on them from headquarters outside the land: Medo-Persia, regional Hellenism, and Rome.

The Mosaic law mandated restraints on Israel's kings. It placed specific boundaries on the king. One of these was that the king not multiply wives for himself. David and Solomon self-consciously defied this law. The pinnacle of Israel's glory came during the reigns of two kings who defied the Mosaic laws of kingship. David multiplied wives. Solomon multiplied wives and gold. Visible rebellion was accompanied by visible blessings: rope. The bills eventually came due. Rehoboam demanded the taxes necessary, he believed, to finance the kingdom that his father had consolidated. The visible splendor of earthly power and glory does not come cheaply. Rehoboam's demand for higher taxes led to a successful tax revolt that divided kingship in Israel. The centralized kingdom was decentralized by political revolution. This is the inevitable fate of every kingdom in history. God the king will not tolerate indefinitely the claims of rival kings and kingdoms.

B. Decentralized Civil Government

Kingship in the ancient pagan world was associated with divinity. The king was frequently regarded as a divine-human link. This was not merely a judicial link; it was an ontological link. The king or emperor was believed to participate in the being of God.[5] Even today, the emperor of Japan is officially said to be a descendent of the gods.[6]

This belief has historical roots, according to the Bible. There was such a divine-human king in Old Covenant history: Melchizedek, king of Salem. The Epistle to the Hebrews describes him: "Without father, without mother, without descent, having neither beginning of days, nor end of life; but made like unto the Son of God; abideth a priest continually" (Heb. 7:3). The language of this epistle indicates that Melchizedek was a theophany, in the same way that the

4. Chapter 23.

5. R. J. Rushdoony, *The One and the Many: Studies in the Philosophy of Order and Ultimacy* (Vallecito, California: Ross House, [1971] 2007), ch. 3.

6. "Emperor Jimmu." *Wikipedia*, Wikimedia Foundation, September 22, 2020; en.wikipedia.org/wiki/Emperor_Jimmu.

burning bush was. He held two offices: priest and king. This was not permitted to an Israelite king. The two offices had to be kept separate. Kings could not lawfully offer priestly sacrifices (I Sam. 13:9–14; II Chron. 26:19).

The separation of church and state was fundamental in the Mosaic law. There were two national judicial chains of command in Israel, civil and ecclesiastical. The high priest's office was separate from kingship. The priesthood unilaterally exercised the sword only in a defensive perimeter around the tabernacle. The Mosaic law was divided structurally between ecclesiastical law and civil law. The centralization of power that was implied by kingship could not lawfully centralize ecclesiastical power under the state. There could be no Melchizedekan king-priest in Israel.

To call for an earthly king was Israel's public admission of political defeat. There is no question of the biblical legitimacy of kingship, for the Mosaic law established provisions governing the office. There is also no question that it was a second-best arrangement. The people of Israel abdicated when they had Samuel ordain a king. For four centuries (I Kings 6:1), they had possessed the authority to follow or reject their judges. They also held a veto. Although Deborah's song retroactively ridiculed those tribes that had not heeded her call to do battle against Sisera (Jud. 5:16–17), there was no question that she had not possessed lawful authority over them to compel their participation. Furthermore, without a joint declaration of war by the princes and the priests (Num. 10), Israel could not lawfully go to war. Israel was to be ruled by princes and judges, who were to consult with the Levites. Political leadership was decentralized in Israel because their king was God. There had to be a high priest in Israel; there did not have to be a king. *Visible sovereignty was supposed to be ecclesiastical far more than civil.* The final voice of civil authority was to be a corporate body: judges and priests who would declare God's judgments in specific cases (Deut. 17:9).[7] The presence of priests on this supreme civil court was designed to keep civil authority from becoming autonomous.

To maintain such a decentralized civil government, the Israelites would have to retain their confidence that God was truly in their midst and that He revealed Himself through His ordained representatives, both ecclesiastical and civil. The inauguration of a king was a public declaration that *the nation no longer wanted its legal status as*

7. Chapter 41.

a thoroughly decentralized kingdom of priests. God recognized this, and He instructed Samuel to tell them this. The king would centralize tax collection and extract a tithe from them (I Sam. 8:15, 17).[8] They did not heed Samuel's warning. Either they did not believe Samuel or they did not care. Either they believed that they could place limits on the king's taxing power or else they believed that the trade-off was worth it. They wanted to be like the nations around them. God granted them this request.

In Moses' day, God knew they would eventually inaugurate a king. This is why He graciously had Moses announce tight boundaries on the king's legitimate authority. He gave the Israelites guidelines—a blueprint—that would enable them to identify when their king was moving toward apostasy, rebellion, and tyranny. Saul, a terrible king, did not openly violate them. David and Solomon did. Rehoboam, surely a third-rate king, imposed new taxes at the beginning of his reign. For this, the Northern Kingdom seceded. God kept Israel decentralized by authorizing a divided kingdom under Jeroboam and therefore two kingly lines.

C. Covenantal Boundaries

Deuteronomy's first kingly law established that only an Israelite could occupy the office: "Thou shalt in any wise set him king over thee, whom the LORD thy God shall choose: one from among thy brethren shalt thou set king over thee: thou mayest not set a stranger over thee, which is not thy brother" (Deut. 17:15). This law governed the nation's civil and ecclesiastical representatives. In Israel, a joint ordination was mandatory for establishing kingship: church and state. Samuel anointed Saul, but he first went before the civil representatives of the nation to warn them not to raise up a king: a political creation of the congregation. Later, when Solomon's authority to reign as king was challenged by a rebellion by his brother Adonijah, the priests and the people decided in his favor. "And Zadok the priest took an horn of oil out of the tabernacle, and anointed Solomon. And they blew the trumpet; and all the people said, God save king Solomon" (I Kings 1:39). This *joint ordination procedure* was even clearer in the case of young Joash, who replaced murderous Queen Athaliah.

> And when Athaliah heard the noise of the guard and of the people, she came to the people into the temple of the LORD. And when she looked, be-

8. North, *Disobedience and Defeat*, ch. 14.

> hold, the king stood by a pillar, as the manner was, and the princes and the trumpeters by the king, and all the people of the land rejoiced, and blew with trumpets: and Athaliah rent her clothes, and cried, Treason, Treason. But Jehoiada the priest commanded the captains of the hundreds, the officers of the host, and said unto them, Have her forth without the ranges: and him that followeth her kill with the sword. For the priest had said, Let her not be slain in the house of the LORD. And they laid hands on her; and she went by the way by the which the horses came into the king's house: and there was she slain. And Jehoiada made a covenant between the LORD and the king and the people that they should be the LORD's people; between the king also and the people. And all the people of the land went into the house of Baal, and brake it down; his altars and his images brake they in pieces thoroughly, and slew Mattan the priest of Baal before the altars. And the priest appointed officers over the house of the LORD. And he took the rulers over hundreds, and the captains, and the guard, and all the people of the land; and they brought down the king from the house of the LORD, and came by the way of the gate of the guard to the king's house. And he sat on the throne of the kings (II Kings 11:13–19).

Deuteronomy 17:15 told the people what they could not lawfully do: ordain a stranger as king. The king had to be eligible to be a judge, i.e., a citizen. Citizenship was covenantal. This citizenship principle established that only a circumcised male who was a member of the congregation, or the daughter or wife of a citizen (e.g., Deborah),[9] could lawfully be ordained to impose civil sanctions. He had to be under covenantal sanctions, marked in his flesh, in order to be eligible for kingship in Israel. This meant that in order for a man lawfully to impose civil covenantal sanctions, he had to be under ecclesiastical covenantal sanctions. A king's flesh had to reveal his implicit self-maledictory oath before God, which had been taken on his behalf by his circumcising parent, who had acted as a household priest.

Circumcision was a physical manifestation of what was to be an inward ethical condition. Moses had already warned Israel: "Circumcise therefore the foreskin of your heart, and be no more stiffnecked" (Deut. 10:16). The stiffnecked person was someone who would not heed God's word. He was a rebel. The circumcised man might not be circumcised in heart, which was why Moses here revealed other marks

9. She was a judge. She commanded the army, but only as a United States President does: as a civilian. She could not legally be drafted into the army. Only men were mustered (numbered) in God's holy army. I conclude that her civil authority as a judge stemmed either from her husband or father, although the text in Judges does not say this. The judicial issue is circumcision: the mark of being under the covenant's negative sanctions.

of the circumcised heart in a man possessing supreme civil authority: one wife, no horses, and not much money.

After Israel returned from the Assyrian-Babylonian exile, its supreme civil rulers would no longer be circumcised. The people had no further say over who would rule over them. The final authority in civil government did not reside in a court in Jerusalem; it resided in some foreign capital. The history of Israel was a transition from judgeship to domestic kingship to foreign empire. Under foreign rulers, both at home and abroad, Israel was to learn the true meaning of kingship. Israel got its wish: to live as the other nations did—as a subordinate nation in a foreign king's international empire.

D. Military Boundaries

The horse was an offensive weapon. Horses were the basis of both the cavalry and chariots. There were to be few horses in the king's stable: "But he shall not multiply horses to himself, nor cause the people to return to Egypt, to the end that he should multiply horses: forasmuch as the LORD hath said unto you, Ye shall henceforth return no more that way" (v. 16). The horse was a tool of empire. Israel's kings could not lawfully multiply them.

The kingdom of God vs. the empire of man: here was the choice before Israel. Israel's civil order was to be decentralized. *Decentralized societies cannot become empires without abandoning their political decentralization*. Republican Rome is the most famous example in history: when Rome became an empire, she ceased being a republic. *Decentralized societies lack what every empire requires: an offensive military force*. A king or his functional equivalent is the commander of every empire. There must be a chain of command with one person serving as the final voice of authority in an empire. The military model requires one-man rule.[10] One-man rule is required in wartime, for the same reason that there can be only one captain on a ship: someone must be held personally accountable for making life-and-death decisions. When a decentralized society suffers a defensive war, this one-man rulership is temporary. A decentralized nation is difficult to lure into an offen-

10. In England's nineteenth-century naval empire, the Prime Minister served in place of the king. Today's largest empire, the United States, does not rule directly over other nations, but rules as first among equals in an international world order. As with England a century ago, the United States' main international concern is commerce. The largest private United States banks have more long-term authority in the maintenance of this commercial empire than the politicians do, which was also the case in England's empire.

sive war: there is no king to promote such a war for his glory, and many powerful local leaders who oppose it, knowing that their power will be transferred upward when war begins. When Israel anointed a king, the nation took the first step toward empire. The next step after this was a stable of horses.

Egypt had been an empire based on chariots. There were limits on what chariots could accomplish. Chariots had failed to keep Israel inside Egypt's boundaries. No Israelite king was to send Israelites down to Egypt to buy horses or to learn the arts of horse-based warfare. *Horses were forbidden to Israel's kings because empire was forbidden*. Israel would be defended by God, just as she had been at the Red Sea. Israelites were not to put their trust in horses.

> Some trust in chariots, and some in horses: but we will remember the name of the LORD our God (Ps. 20:7).

> Woe to them that go down to Egypt for help; and stay on horses, and trust in chariots, because they are many; and in horsemen, because they are very strong; but they look not unto the Holy One of Israel, neither seek the LORD! (Isa. 31:1).

An Israelite army without horses was at the mercy of God, not the mercy of Egypt. To preserve the inheritance of Israel, the king had to conform to God's Bible-revealed laws, for he was the nation's supreme civil representative. A stable full of horses would serve as a symbol of the king's trust in military might rather than God's preserving hand. *An arms race in offensive weaponry in Israel would testify to a national loss of faith*. Men of valor seated on slow-moving donkeys or on foot would be sufficient to defend the borders of Israel and preserve the inheritance. There were other chariots on call: "And Elisha prayed, and said, LORD, I pray thee, open his eyes, that he may see. And the LORD opened the eyes of the young man; and he saw: and, behold, the mountain was full of horses and chariots of fire round about Elisha" (II Kings 6:17). Chariots of fire, not chariots of horses, were to constitute Israel's strategic defense initiative.

E. Marital Boundaries

"Neither shall he multiply wives to himself, that his heart turn not away" (17a). Saul had only one wife (I Sam. 14:50). Ahab had only one wife, probably out of fear of upsetting her. Ahab's kingship proves that monogamy was no guarantee of righteousness. David had an unknown number of wives and concubines (II Sam. 5:13), in addi-

tion to his eight listed wives.[11] Solomon, of course, was the world record-holder: 700 wives and 300 concubines, i.e., wives without dowries (I Kings 11:3). The problem was, as is said of Solomon, "his wives turned away his heart" (I Kings 11:3).

The prohibition on polygamy applied in the Old Covenant only to kings. The most likely reason why the king was singled out in this regard was his access to foreign wives. These marital alliances were not merely biological; they were covenantal. They were therefore political. These wives would likely be part of military alliances with foreign kings. David's wife Maacah was the daughter of a king (II Sam. 3:3). The multiplication of foreign wives was a lure into polytheism, for with foreign wives might come foreign gods. A king's polygamy could easily lead to polytheism. Polytheism was the obvious way for a king to reconcile in his competitive household the imported gods of his wives and their sons. Foreign wives could accept this solution, for the gods of the ancient Near East were polytheistic. This is what happened to Solomon.

From the viewpoint of a foreign king seeking to undermine Israel, an alliance through his daughter's marriage to an Israelite king was ideal. This was a low-cost strategy of subversion. The Israelite king's polytheistic example could undermine Israel in these four covenants: personal, ecclesiastical, civil and familial. *The family was therefore the weak link in the religion of Israel*. So concerned was God to preserve the monotheism of the Israelite family that He demanded the death penalty for any family member who tempted another member to worship a false God (Deut. 13:6–10). The prosecuting family members were to cast the first stones after the errant member's conviction (v. 9). This was because witnesses were required to cast the first stones under Mosaic law (Deut. 17:7).[12]

F. Treasury Boundaries

The text continues: "...neither shall he greatly multiply to himself silver and gold" (17b). These precious metals could be used to build

11. Michal (I Sam. 18:27–28), Abigail (I Sam. 25:39), Ahinoam (II Sam. 2:2), Bathsheba (II Sam. 11:27), Maacah, Haggith, Abital, and Eglah (II Sam. 3:3–5).

12. Jesus understood the implications of this civil law: "And the brother shall deliver up the brother to death, and the father the child: and the children shall rise up against their parents, and cause them to be put to death" (Matt. 10:21). "Think not that I am come to send peace on earth: I came not to send peace, but a sword. For I am come to set a man at variance against his father, and the daughter against her mother, and the daughter in law against her mother in law. And a man's foes shall be they of his own household. He that loveth father or mother more than me is not worthy of me: and he that loveth son or daughter more than me is not worthy of me" (Matt. 10:34–37).

monuments to kingly power: public works projects. These public works projects honor the king or the state. They must then be permanently maintained through permanent taxation, unless the state is willing to admit defeat and transfer their ownership to private organizations.[13] Precious metals could be used to build up an offensive army: the way of empire.[14] They could be used in profligate moral dissipation by the king and his court.[15] It was a violation of God's law for a king to use his authority to extract so much wealth from the population that the excess revenue could be hoarded in the form of money.

G. Judicial Boundaries

The king was told to become familiar with the Mosaic law. "And it shall be, when he sitteth upon the throne of his kingdom, that he shall write him a copy of this law in a book out of that which is before the priests the Levites: And it shall be with him, and he shall read therein all the days of his life: that he may learn to fear the LORD his

13. The national highway system built by the United States Federal government in the late 1950s and 1960s is now becoming a major financial drain on state and local finances as these roads and bridges steadily wear out. Governments did not set aside gasoline tax revenues to pay for the roads' replacement. The consumption of capital took place over several decades. Now the budgets of these governments are constrained by massive debt and by political promises regarding welfare: the support of the poor. Even worse in this respect is the century-old underground water systems of older United States cities, especially in the Northeast.

14. Such hoards of precious metals do not last long in wartime; the costs of warfare are too high. But the presence of a hoard of precious metals in reserve might lure a short-sighted king into starting a war that would outlast his hoard. The problem with a war paid for by the king's precious metals is that his army must gain a string of victories over wealthy opponents in order to replenish his dwindling supply of gold. The offensive military campaign becomes self-reinforcing. To maintain the conquests, wealth must be extracted from the conquered peoples, who resent the imposition. The Roman Republic did not extricate itself from its military victories. The government used the wealth extracted from the provinces to maintain local control over them. Little of this wealth flowed back into Rome's treasury except immediately after an initial military victory. Private Roman citizens kept most of the booty. Bribery and extortion became common with local governors and Rome's senators. A. H. M. Jones, *The Roman Economy: Studies in Ancient Economic and Administrative History* (Totowa, New Jersey: Rowman & Littlefield, 1974), pp. 115–21. The republic became an empire. Eventually, the cost of maintaining it led to bankruptcy and mass inflation. Ibid., ch. 9.

15. Isaiah warned: "His watchmen are blind: they are all ignorant, they are all dumb dogs, they cannot bark; sleeping, lying down, loving to slumber. Yea, they are greedy dogs which can never have enough, and they are shepherds that cannot understand: they all look to their own way, every one for his gain, from his quarter. Come ye, say they, I will fetch wine, and we will fill ourselves with strong drink; and tomorrow shall be as this day, and much more abundant" (Isa. 56:10–12). The court at Versailles under Louis XIV and Louis XV left a mountain of royal debt and oligarchical moral debauchery for Louis XVI to deal with. He and the old order did not survive the ordeal (1789–94).

God, to keep all the words of this law and these statutes, to do them: That his heart be not lifted up above his brethren, and that he turn not aside from the commandment, to the right hand, or to the left: to the end that he may prolong his days in his kingdom, he, and his children, in the midst of Israel" (Deut. 17:18–20).

First, at the time of his accession to the throne, he was to copy the law in his own hand. *He had to be literate*. A king in Israel could not lawfully claim that he had not read the law. He had not only read it; he had written it down. To maintain this kingly inheritance, his son would have to be able to read. This writing down of the law was a joint brain-hand exercise: suitable for memorization. Also, by writing down the law, he was submitting to the treaty of the great king. i.e., God Himself, whose laws and sanctions are in the text.

Second, the priests kept the original copy. This meant that the priests were the law-keepers in Israel. They were the ones with exclusive access to the original source document of Moses' judicials. The king could not tamper with this document. He could not retroactively write new copies of the law in order to mislead the judges of the nation. He was not to become a forger who might later be identified as such by some higher critic of the Bible. He was not sovereign over the law. He was under its authority, as preserved in written form by the priests. *Priestly authority was superior to kingly authority in the area of law*, and this was to be acknowledged by the king by his act of copying the law from the priests' version.

Third, he was required to read the law continually. He was to learn to fear God and to keep God's law. The sign of his fear of God would be his obedience to God's revealed law. This would keep him in his place: "That his heart be not lifted up above his brethren, and that he turn not aside from the commandment, to the right hand, or to the left" (v. 20a).

Fourth, there was a positive sanction attached to this law: "...to the end that he may prolong his days in his kingdom, he, and his children, in the midst of Israel" (v. 20b). This was an extension of the fifth commandment's promise: "Honour thy father and thy mother: that thy days may be long upon the land which the LORD thy God giveth thee" (Ex. 20:12). By honoring God by obeying His law, the king could bring the blessings of long life and extended authority to himself and his heirs. The law specifically identified the land as "his kingdom." To preserve his family's kingly line, he had to obey.

H. Taxes and Control

Centralization means a transfer of authority away from the individual. Taxes imposed by a central government are transmitted to an agency of government more distant from the taxpayer than local governments. The taxpayer has less influence over the spending of this money. This means that the spending preferences of the individual are usually compromised by the collecting agency. His preferences are drowned out by the preferences of other taxpayers and special-interest political pressure groups. The central collecting agency can play off one competing group against another. This allows the civil government's decision-makers to substitute their spending preferences for those of the taxpayers. Meanwhile, organized opposition to specific taxes will be sporadic and diffused.[16]

The king in Israel faced competing demands for the money he collected. There is always heavy demand for free money. Those desiring access to the king's money might even be located outside the country. The king, as the official representative of all the people, had more claims on the use of his funds than any local government faced. The spending decisions made by a king were therefore more complex. Meanwhile, the taxpayer found it difficult to gain the king's support for the taxpayer's preferred project. His preferences were drowned in the noise of competition.

This noise transferred greater power to the king and his agents. The more complex the problems facing the king, and the more noise there was in the competition for access to the funds, the greater the flexibility of the king in spending the taxpayers' money. This means greater arbitrariness and less of a restraining effect by the law. The more money collected by the king, the more detailed the law book had to be to govern the allocation of the revenue. A rule of bureaucracy is this: *the thicker the law book, the more arbitrary the decisions*. If the law book is too thick to make it easy for anyone to coordinate the details of the law, the bureaucrat has fewer restraints on his decision-making. This is another reason why the Bible's law book is comparatively thin—thin enough to be read to the assembled population once every seven years (Deut. 31:10–12).[17]

The Mosaic law established a political order in which civil power was decentralized. There could be a king, but for four centuries, there

16. Milton Friedman and Rose Friedman, *Free to Choose: A Personal Statement* (New York: Harcourt Brace Jovanovich, 1980), pp. 292–94.

17. Chapter 75.

wasn't. Civil government's decision-making was kept at the local level. So was tax revenue. This decentralization made it possible for local taxpayers to have a greater voice in the distribution of their funds. It also allowed them to place pressure on the government when taxes got too high. It was far more difficult to restrict a distant king's power over the purse. It took a political revolution under Jeroboam to reduce the burden of Rehoboam's taxes (I Kings 12). Revolution is an expensive, risky, and infrequent occurrence in the affairs of nations.

I. Tax Tyranny

When the Israelites first proposed a king to Samuel, the prophet warned them of the dire consequences that would surely follow. The king would tax them equal to the tithe (I Sam. 8:15, 17). This threat of looming tax tyranny did not deter them, any more than dire warnings against the establishment of a national income tax deterred voters in the early twentieth century. The people wanted a king in Israel; similarly, the people have wanted a savior state in the twentieth century, with the high tax rates necessary to fund such a would-be savior state. The twentieth century produced tax rates far above the tithe. To get back to a mere tithe, which Samuel warned was tyranny, most of the civil governments of the modern world would have to cut taxes by three quarters. To get back to the tax level of tyrannical Egypt under Joseph (Gen. 47:26)—God's curse on Pharaoh-worshipping Egypt through Joseph—modern welfare states would have to cut taxes by at least half.[18]

This fact is evidence that the modern world has adopted political tyranny in the name of freedom and economic justice. The modern secular world has strayed so far from belief in the God of the Bible that it regards tax tyranny as liberty. Tax reformers who call for a 20% national flat tax—leaving intact all state and local taxes—are dismissed by the vast majority of intellectuals and elected politicians as crackpot defenders of a near-libertarian state. Meanwhile, the modern church refuses to call for massive tax cuts in the name of the Bible. The operating alliance between secular humanists and the Old Testament-rejecting pietists has led to the establishment of the would-be savior state, which promises healing to all mankind. This is modern man's version of salvation by law. Christians affirm its legitimacy in the name of their rejection of Old Testament law. They argue that the acceptance of Old Testament civil law is a form of legalism.

18. Gary North, *Sovereignty and Dominion: An Economic Commentary on Genesis* (Dallas, Georgia: Point Five Press, 2012), ch. 35.

This has led Christians, step by step, into a political alliance with modernists, whose version of salvation by humanistic civil law has become a universal faith in the once-Christian West. In the same way that the Israelites demanded a king because the pagan nations around them had kings, so have Bible-affirming Christians voted for politicians who have imposed tax tyranny in the name of the savior state, i.e., the welfare state. They have not understood that there is a relation between biblical law and freedom. Neither did the Israelites.

The modern welfare state was the creation of Otto von Bismarck, who advocated state-funded pensions and health insurance in the 1880s in order to undermine the Social Democrats (socialists) and the liberals (laissez-faire) who were challenging his authority to rule over Germany's government.[19] Germany, which had by then become the center of state-funded education and biblical higher criticism, became the West's model for the welfare state after 1890.[20] Bismarck called his program "applied Christianity," but it was actually applied force for the purpose of increasing state power. He told his biographer in 1881, "Anybody who has before him the prospect of a pension, be it ever so small, in old age or infirmity is much happier and more content with his lot, and much more tractable and easy to manage, than he whose future is uncertain."[21] He also told him, "The State must take the matter into its own hands, not as alms-giving, but as the right that men have to be taken care of when, with the best will imaginable, they become unfit for work. . . . This thing will make its own way; it has a future. When I die, possibly our policy will come to grief. But State Socialism will have its day; and he who shall take it up again will assuredly be the man at the wheel."[22] In 1889, shortly after his forced retirement, Bismarck's tax-funded pension plan was voted into law.

Christians want to live in a society like the pagan nations around them. This is especially true of Christians in college classrooms who

19. He could not persuade the German parliament in 1881 to vote for government funding of health insurance, but it did vote for state-mandated health insurance (1883) and accident insurance (1884), to be co-funded by workers and employers. But, economically speaking, workers funded the employers' share, too. The employers would have been willing to pay the workers the same money in salaries. The payment was simply a cost of doing business. It went to insurance rather than wages.

20. A. J. P. Taylor, England's prolific socialistic historian, wrote: "German social insurance was the first in the world, and has served as a model for every other civilized country. The great conservative became the greatest of innovators." Taylor, *Bismarck: The Man and the Statesman* (New York: Knopf, 1955), p. 203.

21. Moritz Busch, *Our Chancellor (Bismarck): Sketches for a Historical Picture*, trans. William Beatty-Kingston, 2 vols. (New York: Books for Libraries, [1884] 1970), II, p. 217.

22. *Ibid.*, II, pp. 321–22.

have earned advanced academic degrees from state-funded universities and state-accredited private secular universities, which today serve as the institutional equivalent of Nebuchadnezzar's school for the sons of conquered nations (Dan. 1). This lust of covenant-keepers to conform to the latest manifestations of covenant-breaking society has undermined the covenants from the day that the nation of Israel ratified the national covenant in Exodus 19. The unwillingness of covenant-keepers to filter and then restructure imported ideas, institutions, and practices by means of God's Bible-revealed law places them at the mercy of the ethical standards of their enemies.

Conclusion

The king, as the final voice of civil authority, was not to replace the supreme court, which had to include priests (Deut. 17:8–13). The priests could exercise a judicial veto.[23] Yet because the king possessed an army and personal authority, he would inevitably become a major source of judicial interpretation. He would threaten the system of co-judgeship in which the priests served as counsellors to civil judges. The authority to declare the law in God's name and then to enforce it is the foundation of covenantal authority. The state has the power to enforce the law physically. In a covenantally rebellious society, the fear of the state is greater than the fear of excommunication. The state becomes the most feared interpreter of the law.

This is why Absalom used the promise of wise judicial declaration as his primary weapon in his subversion of his father's throne.

> And Absalom rose up early, and stood beside the way of the gate: and it was so, that when any man that had a controversy came to the king for judgment, then Absalom called unto him, and said, Of what city art thou? And he said, Thy servant is of one of the tribes of Israel. And Absalom said unto him, See, thy matters are good and right; but there is no man deputed of the king to hear thee. Absalom said moreover, Oh that I were made judge in the land, that every man which hath any suit or cause might come unto me, and I would do him justice! And it was so, that when any man came nigh to him to do him obeisance, he put forth his hand, and took him, and kissed him. And on this manner did Absalom to all Israel that came to the king for judgment: so Absalom stole the hearts of the men of Israel" (II Sam. 15:2–6).

Absalom promised to do what Moses could not do: render perfect justice to all-comers. His offer would not have been believable had

23. Chapter 41.

the king not already undermined the supreme court's function by arrogating judicial authority to himself, and through his own person, to the autonomous state.

Foreign kings repeatedly made trouble for Israel, from the day that Chedorlaomer kidnapped Lot (Gen. 14) to the fall of Jerusalem in A.D. 70. The Pharaoh of the oppression was the archetype of what a king could become if left unchecked by law and God's historical sanctions. There had been only one exception: Melchizedek. Abram had gone to meet him, bringing tithes to him and receiving bread and wine from him. But Melchizedek was different from the other kings: he was also the priest of Salem. He lawfully possessed both offices: king and priest (Gen. 14:8). He was a royal priest. He, too, was an archetype—not for individual kingship, but for corporate kingship. Israel as a nation of priests was to imitate Melchizedek.

Israel was set apart by God at Sinai. The nation took an oath there to obey God's law (Ex. 19). God then gave them His law (Ex. 20–23). At Sinai, God had prophesied that they would become a kingdom of priests (Ex. 19:6). They were not yet such a kingdom, He implied, but someday they would be. It was the fulfillment of this prophecy by the church that Peter announced: "But ye are a chosen generation, a royal priesthood, an holy nation, a peculiar people; that ye should shew forth the praises of him who hath called you out of darkness into his marvellous light" (I Peter 2:9).

Implicit in Peter's doctrine of the institutional church as a holy nation is the call for a return to the decentralized Israel of the judges era, though without a high priest. Decentralization is to be both civil and ecclesiastical, for Jesus Christ is the high priest after the order of Melchizedek (Heb. 5:10) and therefore a king (Heb. 7:1–2). He reigns exclusively from heaven, not from an earthly holy of holies. But it took until 1918 for the Christian West to come to grips with the civil implications of the doctrine of the bodily ascension of Christ. By the end of World War I, when the kings at last departed, Christendom had also departed. It was not Christianity that finally abolished kings; it was the Enlightenment, both left wing and right wing.

43

LEVITICAL INHERITANCE THROUGH SEPARATION

> *The priests the Levites, and all the tribe of Levi, shall have no part nor inheritance with Israel: they shall eat the offerings of the* LORD *made by fire, and his inheritance. Therefore shall they have no inheritance among their brethren: the* LORD *is their inheritance, as he hath said unto them.*
>
> DEUTERONOMY 18:1–2

The theocentric focus of this priestly law is God's identification of Himself as the Levites' inheritance. This law governed the separation of the tribes: boundaries.

A. Landless Levites

This was a land law.[1] It had to do with landed inheritance inside the boundaries of Israel. Inheritance through separation was basic to the Mosaic covenant.[2] God separated Israel from the nations. He also separated the tribes. He separated the Levites from the other 12 tribes. The Levites would inherit an office that allowed them geographic proximity to God's dwelling place in the tabernacle. The cost of this inheritance was their forfeiture of any inheritance in rural Israel. God separated them for service to Him. He therefore separated them judicially from their brethren. The economic marks of this judicial separation were two-fold: their lack of jubilee-guaranteed rural landed inheritance and their lawful claim on the tithe (Num. 18:26).[3]

1. On land laws, see Appendix J.

2. Gary North, *Boundaries and Dominion: An Economic Commentary on Leviticus,* 2nd ed. (Dallas, Georgia: Point Five Press, [1994] 2012), ch. 21.

3. Gary North, *Sanctions and Dominion: An Economic Commentary on Numbers*, 2nd ed. (Dallas, Georgia: Point Five Press, [1997] 2012), ch. 10.

Levites could not normally inherit rural land, according to the jubilee laws. Instead, they were entitled to a tithe from their rural brethren. There was a reason for this: the other tribes did not have lawful access to tabernacle service. *The separation of Levi from rural land was an aspect of God's separation of the other tribes from His presence*. God identified Himself as the Levites' inheritance. The Levites' inheritance of God was accompanied by their legal claim on the tithe.

> And the LORD spake unto Aaron, Thou shalt have no inheritance in their land, neither shalt thou have any part among them: I am thy part and thine inheritance among the children of Israel. And, behold, I have given the children of Levi all the tenth in Israel for an inheritance, for their service which they serve, even the service of the tabernacle of the congregation. Neither must the children of Israel henceforth come nigh the tabernacle of the congregation, lest they bear sin, and die. But the Levites shall do the service of the tabernacle of the congregation, and they shall bear their iniquity: it shall be a statute for ever throughout your generations, that among the children of Israel they have no inheritance. But the tithes of the children of Israel, which they offer as an heave offering unto the LORD, I have given to the Levites to inherit: therefore I have said unto them, Among the children of Israel they shall have no inheritance (Num. 18:20–24).

The connection between the tithe and liturgical service is obvious in this text. *The Levites alone had control over the sacrifices; therefore, they alone had a legal claim on the tithe*. There was nothing voluntary about this claim on the productivity of others. As surely as an Israelite had to worship God according to the ritual requirements of the tabernacle, so did he have to pay his tithe to the Levites. His payment was for services rendered: atoning services rendered to God in the name of the people. The tithe had nothing to do with non-liturgical services to the community, such as teaching, music, or anything else. The Israelite had no independent authority to send his tithe to agents who met his social needs or anyone else's.[4] *The tithe went to God through His church*. No other agency had a legal claim on the tithe. This has not changed in New Testament times.

What has changed is the tribal aspect of the tithe. The Levites' inheritance was part of the tribe's lack of inheritance in rural land. This made the tithe a matter of civil law, just as the enforcement of the jubilee year was the be civil. The Levites possessed an enforceable claim on the tithe. The church does not.

4. Gary North, *Tithing and the Church* (Tyler, Texas: Institute for Christian Economics, 1994), ch. 9.

B. The Geography of Mosaic Inheritance

The Levites could not inherit rural land except in a very special situation, when a priest inherited land because of an owner's broken vow of land pledged to God (Lev. 27:20–21).[5] As an heir of God, a priest could inherit this land under the provisions of the jubilee. Under no other circumstances could a non-priestly Levite inherit rural land. He could only lease it until the next jubilee.

By separating Levites from rural land, the Mosaic law prevented the centralization of landed wealth by the one tribe that had no geographical boundaries: Levi. The Levites would have to content themselves with tithe money, voluntary offerings, and urban real estate, which was not under the jubilee's provisions in non-Levitical walled cities. Within their own cities, the jubilee year did apply to Levites (Lev. 25:33). This kept Levites tied geographically to cities, which were located inside the boundaries of specific tribal allotments. Their regional influence would come through their urban wealth and their social position as counsellors who were experts in God's law. It would not come through their amassing of rural land: pockets of civil influence inside other tribal communities. Citizenship was possible inside cities, for covenant-keeping men had access to membership in God's holy army, but their citizenship was by adoption into a tribe. If this was the tribe of Levi, its influence was mainly indirect: not through votes inside another tribe's council but rather through non-voting theological and judicial influence.

The other tribes were required to keep their distance from the inner courts of the tabernacle. It meant death for them to approach the holy of holies, where the Ark of the Covenant rested: death by armed Levites or death by God (Num. 3:5–10). The concentric boundaries of the holy of holies were protected by the armed representatives of the three Levitical families: Merari (outermost ring), Gershon, and Kohath (innermost ring).[6] After Israel's return from the Babylonian captivity, there was no further mention of the Ark. The holy of holies still remained holy in Israel, but there was no longer a pair of the original covenantal documents inside the Ark.

The Bible does not say whether the tithes were collected locally, then sent to a central warehouse, and then redistributed nationally to every Levite on some pro-rated share. The high expense of transporting goods implies that Levites were paid from local storehouses. This

5. North, *Boundaries and Dominion*, ch. 36.
6. North, *Sanctions and Dominion*, ch. 3.

meant that the prosperity of a local Levite was dependent on the prosperity of residents in his region. *The Levite was economically dependent on the local community's success*.

A Levite could volunteer for service at the tabernacle (Deut. 18:6). This service was sacramental (v. 7). Sacramental service mandated equal income for services rendered, but the Levite could also receive income from the long-term leasing out of his inheritance (v. 8). Income from sacramental service was tithe-free; income from the sale-lease of his property or other investments had to be tithed.[7] If he had owned a house in a Levitical city, he could lease it out to someone else. He had the right to return and buy back his property at any time (Lev. 25:32). His house would automatically be returned to him or his heirs in the jubilee (Lev. 25:33).

The unique geographical presence of God with members of one tribe established this tribe's legal claim on a tenth of the net income of their brethren. The text speaks of God as the Levites' inheritance (v. 1). This inheritance was geographical, occupational, and revelational.

The Levites had to defend the Ark of the Covenant. This responsibility was in part liturgical and in part covenantal: an aspect of the oath. They lawfully possessed the authority of the sword inside the boundaries of the tabernacle area (II Chron. 23:7). Because of the holiness of the Ark, the Levites had a unique geographical calling before God and men. The Levites' roots in Israel were tied to the Ark of the Covenant and the sacrifices and defense associated with it.

The Levites served God inside the geographical boundaries surrounding the Ark of the Covenant: a radius of 2,000 cubits. Joshua told the invading tribes regarding the invaders' formation: "Yet there shall be a space between you and it, about two thousand cubits by measure: come not near unto it, that ye may know the way by which ye must go: for ye have not passed this way heretofore" (Josh. 3:4). This was the same distance of ownership of land surrounding the Levitical cities. "And the suburbs of the cities, which ye shall give unto the Levites, shall reach from the wall of the city and outward a thousand cubits round about. And ye shall measure from without the city on the east side two thousand cubits, and on the south side two thousand cubits, and on the west side two thousand cubits, and on the north side two thousand cubits and the city shall be in the midst: this shall be to them the suburbs of the cities" (Num. 35:4–5).

Land was basic to the Mosaic law's system of inheritance. Land

7. *Ibid*., ch. 3:D:2.

was part of the seed laws, which also dealt with inheritance.[8] The Levites were God's inheritance in Israel. God set them apart for special service to Him. He did not let them place their financial hopes on rural land, which was the inheritance of the other tribes. This was a major advantage to the Levites, for there could be no legitimate economic hope in rural land if Israel kept God's covenant law. The multiplication of the Israelite population—long life (Ex. 20:12) coupled with no miscarriages (Ex. 3:26)—would have shrunk the size of each inheriting generation's family plot. We might even call this God's plot against family plots. The Levites would have been owners of urban real estate, which would rise in value as Israelites moved from the farms and aliens moved to Israel. God placed them in the geographical centers of future economic growth, assuming that the nation kept God's covenant. Teaching the nation to do this was a major task of the Levites. God attached a positive economic sanction to the success of the Levites' calling. They would do well by doing good. The value of their inheritance would grow.

The Levites would speak for God throughout the land. Their separation from tribal land made them a dispersed tribe. Their separation from the other tribes locally was an aspect of their separation from the other tribes liturgically.

C. The Levites' Occupational Separation

No other tribe could offer burnt offerings to God. Levites were the designated intermediaries in between God and members of other tribes. In payment for the services associated with sacrifices, the Levites were to receive tithes and offerings. The priests of the sanctuary—the holy, set-apart area—who were selected from the family of Aaron (Num. 18:1), were to receive a tithe of this tithe (Num. 18:26).

This specialized and judicially restricted liturgical service had to be funded. Because liturgical service was mandatory for the renewal of both the ecclesiastical and civil covenants,[9] it was funded by a manda-

8. On seed laws, see Appendix J.

9. Families also participated in the national feasts, but they did so as members of the ecclesiastical community. The feasts were not means of family covenant renewal, for there are no means of family covenant renewal. The family covenant of the marriage partners is broken only by death, either biological or covenantal. Ray R. Sutton, *Second Chance: Biblical Blueprints for Divorce and Remarriage* (Ft. Worth, Texas: Dominion Press, 1987), ch. 2. It is lawfully broken when children leave their parents' household to marry (Gen. 2:24). A failure to participate in a mandatory feast did not break the legal requirements of a family, such as staying married or honoring parents. An individual Israelite was required to attend, whether or not he was a member of a family. A

tory tithe. This was not a voluntary payment, for attendance was not voluntary. This payment moved upward from individuals to Levites because of God's appointment of the Levites as His covenantal spokesmen in the national hierarchy. There was a top-down flow of ecclesiastical authority from God to the people, and the Levites were at the top of this earthly hierarchy. They possessed a monopoly because of their proximity to the Ark of the Covenant, which contained the two stone tablets of the law, the founding covenantal documents.[10] That Levites were the nation's senior spokesmen is indicated by the fact that they, not the state, had a specified claim on the net rural income of the nation, and that any attempt on the part of a king to collect an equally large percentage of income was tyrannical (I Sam. 8:15, 17). The church, not the state or the family, was the central institution in Israel.[11]

The Levites' lawful claim on covenant-keeping men's income was based on their God-ordained monopoly of liturgical service. Their occupation was closed to members of other tribes. To become a Levite, a man had to be adopted into the tribe, and this required the payment of an expensive entry fee by the adoptee on behalf of himself and every member of his family (Lev. 27:2–8).[12]

D. The Levites' Revelational Separation

The high priest had access to God's word directly. He possessed the urim and thummim. "And thou shalt put in the breastplate of judgment the Urim and the Thummim; and they shall be upon Aaron's heart, when he goeth in before the LORD: and Aaron shall bear the judgment of the children of Israel upon his heart before the LORD continually" (Ex. 28:30). "And he shall stand before Eleazar the priest, who shall ask counsel for him after the judgment of Urim before the LORD: at his word shall they go out, and at his word they shall come in, both he, and all the children of Israel with him, even all the congregation" (Num. 27:21). This access was not granted to Levites and other priests.

The priests had access to the written Mosaic law and the written revelation of the Bible, beginning with the Pentateuch. At some point,

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circumcised stranger could also attend, although to gain this privilege, any male in his household also had to be circumcised (Ex. 12:48).

10. Meredith G. Kline, *The Structure of Biblical Authority*, rev. ed. (Grand Rapids, Michigan: Eerdmans, 1975), Part 2, ch. 1.

11. This is equally true today. The church extends into eternity (Rev. 21, 22). The family and the state do not.

12. North, *Boundaries and Dominion*, ch. 35.

probably early in Israel's history, these scrolls were copied down for use locally by the other Levites. The decentralized system of synagogues in Jesus' day used scrolls of the Bible (Luke 4:17). Access to written revelation made the Levites specialists in rendering judgment, both civil and ecclesiastical. But this occupational specialization was not uniquely the possession of the Levites. Judges had equal civil authority (Deut. 17:8–13).[13]

The priesthood shared this declarative authority with prophets. The prophet had superior authority. The prophet's authority was greater than the king's (II Sam. 12) and the priesthood's. Moses' authority as a prophet (Deut. 34:10) was greater than Aaron's authority as a priest. But the office was a temporary one, and any misuse of it was a capital crime.

> I will raise them up a Prophet from among their brethren, like unto thee, and will put my words in his mouth; and he shall speak unto them all that I shall command him. And it shall come to pass, that whosoever will not hearken unto my words which he shall speak in my name, I will require it of him. But the prophet, which shall presume to speak a word in my name, which I have not commanded him to speak, or that shall speak in the name of other gods, even that prophet shall die. And if thou say in thine heart, How shall we know the word which the LORD hath not spoken? When a prophet speaketh in the name of the LORD, if the thing follow not, nor come to pass, that is the thing which the LORD hath not spoken, but the prophet hath spoken it presumptuously: thou shalt not be afraid of him (Deut. 18:18–22).

With greater authority comes greater responsibility (Luke 12:42–48).[14] *False prophecy was a capital crime in Israel because the prophet was the supreme judicial authority*. The proof of his authority was his ability to invoke successfully God's direct sanctions. But he was not to rule on a throne or offer sacrifices in the temple. His was not a permanent office. He was called by God to render supreme judgment in times of national apostasy when civil judges and Levites were not speaking God's word, and who were therefore speaking the word of another god. *His authority was based on God's direct revelation to him and God's imposition of sanctions invoked by him*. He was the designated agent, called directly by God, who brought a formal covenant lawsuit against the nation, which included the nation's ordained leaders.

13. Chapter 41.

14. Gary North, *Treasure and Dominion: An Economic Commentary on Luke*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 28.

Because the prophet did not possess a permanent office, he had no lawful claim on anyone's income. Such a claim is possessed only by someone who is ordained by God through a formal process of ordination. Ordination is both institutional and covenantal. It is invoked by covenantal oath. The prophet's calling was not necessarily so invoked.

The prophet was not necessarily a member of a Levitical family that possessed a lawful covenantal claim on another family's money. This issue has nothing to do with contractual claims, which are not established by covenantal oath. Here I am speaking of covenantal claims that can be transferred by oath to a successor. A king normally transferred to his son his legal claim on a portion of the income of the people. The son's right of kingly inheritance had to be confirmed by ecclesiastical anointing, as Solomon's was (I Kings 1:39).[15] A Levite could pass to his sons his legal claim to tithes and offerings. A prophet did not possess any such claim; his son could not inherit it.

The Levites possessed no claim of immediate revelation from God except through the high priest. Their expertise in the law was occupational. That is, their claim to knowledge of revelation was not a monopoly. It was shared by civil judges. The Levites had a claim on men's income. So did civil judges. The prophet did not. *God's direct revelation to and direct calling of the prophet were not accompanied by a legal claim on someone else's money*. The office of Levite and judge, which did involve such a legal claim, did not imply access to direct revelation. The prophet's authority rested solely on his possession of direct revelation from God, yet he had no lawful economic claim in his capacity as a prophet. Any assertion by a prophet of a covenantally authorized claim on someone else's money would have constituted *prima facie* evidence of the illegitimacy of his call by God. Court prophets hired by the king or appointed under his authority were sure to be false prophets. Judah's King Jehoshaphat suspected as much when he heard Ahab's 400 assure the two kings that they would be victorious over the Syrians. He asked for a second opinion. He wanted to hear from a prophet who was not on Ahab's payroll (I Kings 23:7).

The Levites were separated by God to study His law and pronounce judgments. This separation was an aspect of the division of labor. Not only was it a generational phenomenon, unlike the prophet's office, it was not monopolistic. It was shared by civil judges.

15. Jehoiada the priest rallied the Levites to defend the kingship of Joash. The Levites defended the young king by means of swords (II Chron. 23:1–8).

Their knowledge was therefore based on specialized study rather than uniquely supernatural intervention by God. Their inheritance was based on *liturgical separation*, not revelational separation. Revelational separation, which the prophet possessed, was not accompanied by legal claims on other people's income. This made the prophetic office not only highly risky judgmentally—imprisonment or death if you prophesied accurately to unrighteous leaders, execution if you prophesied falsely to righteous men—but risky economically. Prophesying was a calling,[16] not an occupation.

Conclusion

The Levites possessed no guaranteed inheritance in rural land. They did possess a jubilee-guaranteed inheritance inside Levitical cities (Lev. 25:33). As a substitute for landed inheritance, God gave them as their inheritance a claim to a tithe on other men's net income. This made them dependent on the productivity of other men.

Their ecclesiastical claim on other men's income was based on the liturgical monopoly which they possessed. This monopoly had a geographical aspect. Only Levites could lawfully approach the innermost sanctum of the tabernacle, and only the high priest could enter it. The Ark of the Covenant was the holiest object in Israel. It had to be defended. The Levites possessed this occupational assignment. They retained it after their return from Babylon, although the Ark seems to have disappeared. This assignment ended when the Romans destroyed the temple in A.D. 70.

Their civil claim on other men's income was based on their lawful inheritance of the tithe in lieu of rural land. This civil claim ended in A.D. 70.

16. I define a calling as the most important work a person can do in which he would be most difficult to replace. Only rarely is a person's calling his occupation.

44

LANDMARKS AND SOCIAL COOPERATION

> *Thou shalt not remove thy neighbour's landmark, which they of old time have set in thine inheritance, which thou shalt inherit in the land that the* LORD *thy God giveth thee to possess it.*
>
> DEUTERONOMY 19:14

The theocentric focus of this law is God's ownership: the judicial issue of boundaries.

A. Ownership as Exclusion

God owned the land of Canaan. As the original owner, it was His right to determine who would manage it for Him. He could lawfully exclude anyone from occupying a piece of land, in the same way that He excluded Adam and Eve from the forbidden tree. *Ownership, above all, means the legal right to exclude.*[1] So does stewardship, as a form of delegated ownership. God was about to transfer stewardship over this land from the Canaanites to the Israelites. That is, he was about to use Israel to exclude Canaanites from the land they were occupying. More to the point, for Israel to inherit the land, which God had promised to Abraham, Canaanites would have to be disinherited. *Inheritance/disinheritance is the fundamental theme of Deuteronomy.*

Because God planned to take up residence in Israel in a special way (Num. 35:34), His ownership of the land of Israel was special. He owned the whole world in general, but He owned the land of Canaan specially. "The land shall not be sold for ever: for the land is mine; for ye are strangers and sojourners with me" (Lev. 25:23). Also, He owned all nations generally, but He owned Israel specially. "But now

1. The model is God's exclusion of the forbidden tree.

thus saith the LORD that created thee, O Jacob, and he that formed thee, O Israel, Fear not: for I have redeemed thee, I have called thee by thy name; thou art mine" (Isa. 43:1). He established laws governing rural land ownership inside the nation's boundaries (Lev. 25)[2] that had not applied before, and which would no longer apply in the same way after the exile, when gentiles living in the land would be included under the jubilee laws (Ezek. 47:21–23).[3] These laws finally ended when God ceased to dwell with Israel as a nation after A.D. 70. The disinheritance of Israel was marked by the annulment of the jubilee laws. These laws had never applied outside of the land of Israel. They had not been cross-boundary laws. They were land laws.[4]

B. Permanent External Boundaries

The original allocation of land to the families of the conquest generation in the days of Joshua was supposed to remain unchanged. Down through the generations, there would be subdivisions of the original properties within each family, but the external boundaries were to remain unchanged. These boundaries marked the inheritances of the original families. Moses told Israel that God would distribute each family's inheritance through surveyors, judges, and lot-casters (Num. 26:52–56).[5] God was sovereign over this casting of lots.

Every Israelite family was required to honor God's original allocation. Only after Israel's return from the exile did God allow new boundaries for those families that had lost track of their original boundaries, or whose claims had been replaced by foreigners brought into the land by the conquering Assyrians and Babylonians. Prior to the exile, any tampering with the evidence of this original allocation was a form of theft of God's property. God's agents had *subdivided the land*, and in so doing, they had allocated the *responsibilities of stewardship*. The jubilee law placed limits on the permanent transfer of these responsibilities. These responsibilities (liabilities) were inseparable from the land (asset). No family could lawfully sell these assets-responsibilities or forfeit them to repay a debt.[6]

2. Gary North, *Boundaries and Dominion: An Economic Commentary on Leviticus*, 2nd ed. (Dallas, Georgia: Point Five Press, [1994] 2012), ch. 24.

3. Gary North, *Restoration and Dominion: An Economic Commentary on the Prophets* (Dallas, Georgia: Point Five Press, 2012), ch. 22.

4. On land laws and cross-boundary laws, see Appendix J.

5. Gary North, *Sanctions and Dominion: An Economic Commentary on Numbers*, 2nd ed. (Dallas, Georgia: Point Five Press, [1997] 2012), ch. 14.

6. The one exception was the refusal to pay a vow to a priest (Lev. 27:20–21). See

The jubilee land law was important for what it silently implied: *in the absence of such a law, it was lawful to transfer such stewardship responsibilities*. It was lawful to delegate these assets-responsibilities until the next jubilee year. Any suggestion that economic liability cannot legally be delegated or transferred is incorrect—as incorrect as the suggestion that economic assets cannot legally be delegated or transferred. The jubilee law testifies to the fact that *economic liability and responsibility can lawfully be delegated*, and, in the absence of such a law, can be *permanently transferred*. The whole point of the dominion covenant (Gen. 1:26)[7] is that God delegated a great deal of responsibility to Adam, who in turn delegated some of it to Eve, and would have delegated it to his children. It was the very legality of this transfer that gave Satan his opportunity to steal the inheritance by deceiving Eve and corrupting Adam. "And Adam was not deceived, but the woman being deceived was in the transgression" (I Tim. 2:14).

This law was repeated in Deuteronomy 27:17: "Cursed be he that removeth his neighbour's landmark. And all the people shall say, Amen." There had to be a public affirmation—an amen—on the part of the people. The fundamental issue here was inheritance. The jubilee land laws were supposed to provide continuity between the original allocation and the future. There could not be any legal long-term alienation of rural land. There was an eschatological reason for this restriction on the sale of land. The Mosaic land laws were aspects of the seed laws, and the seed laws were messianic, having to do with Jacob's prophecy regarding Shiloh (Gen. 49:10). The tribes had to be kept separate in order for Jacob's prophecy to come true. The land laws were a means of keeping the tribes separate.[8]

To move a neighbor's landmark was an act of theft. It was not an easily achieved deception in open terrain. The more accurate the measuring devices, the more difficult the deception. The ancient world had extraordinarily accurate measuring devices, as the dimensions of the Cheops pyramid indicate.[9]

North, *Boundaries and Dominion*, ch. 36:E–F.

7. Gary North, *Sovereignty and Dominion: An Economic Commentary on Genesis* (Dallas, Georgia: Point Five Press, 2012), ch. 3.

8. North, *Boundaries and Dominion*, ch. 17.

9. Peter Tompkins, *Secrets of the Great Pyramid* (New York: Harper & Row, 1971). See especially the appendix by Livio Stecchini. See also Giorgio de Santillana and Hertha von Dechend, *Hamlet's Mill: An essay on myth and the frame of time* (Boston: Gambit, 1969).

C. The Civil Sanction

Moving a landmark was an act of theft. The penalty for theft was double restitution: "If the theft be certainly found in his hand alive, whether it be ox, or ass, or sheep; he shall restore double" (Ex. 22:4).[10] This must have been a monetary payment. The civil sanction could not have been the forfeiture of rural property. This was not any man's right to transfer. A convicted criminal could not alienate his family's land. Double restitution must have been made by the transfer of some other form of property besides land.

A successful theft constituted the disinheritance of one's neighbor. What was the value of this disinheritance? There was no market for the sale of rural land in Mosaic Israel. That was because it was illegal to disinherit one's heirs. There was a long-term leasehold market. The maximum term of the lease was 49 years: until the next jubilee (Lev. 25:27). The technical problem was for judges to estimate a market price for the stolen asset, despite the fact that there was no market for permanent transfers of land under the jubilee law. They could not simply double the prevailing lease price, which would expire at the next jubilee. The next jubilee might be in a year, so the lease price would have been low. The theft, however, was intended to be permanent. A more accurate assessment of the market value of the stolen land would have been its lease price, with payment in advance, at the beginning of the most recent jubilee cycle. They could double this price to establish the restitution price. Of course, 49 years is not the same as the permanent transfer of ownership. But the price of any income stream that is purchased on a 49-year lease basis, with payment in advance, is close to the price for a much longer lease period. Also, the higher the rate of interest on long-term loans, the closer that the up-front cash payment will be for both lease periods. The discounted present market value of income received in year 49 is close to the discounted present market value of income received in year 99.

D. Graves and Boundaries

There was a major difference between Israel and the other nations, including Greece and Rome: the lack of sacred land. There was no sacred land in Israel. There was sacred space: the place where the Ark of the Covenant was housed. The most sacred space in Israel

10. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia; Point Five Press, 2012), Part 3, *Tools of Dominion* (1990), ch. 43.

was inside the Ark. After the return of the Ark from Philistia on the cart drawn by the oxen, it arrived at Bethshemesh. God's judgment came against the residents in the early days of the Ark's arrival. "And he smote the men of Beth-shemesh, because they had looked into the ark of the LORD, even he smote of the people fifty thousand and threescore and ten men: and the people lamented, because the LORD had smitten many of the people with a great slaughter" (I Sam. 6:19). This many deaths indicates that the whole city was involved. A generation of men died, leaving their wives without husbands. This would have drastically speeded up the inheritance process in the region. Not surprisingly, the survivors invited the people of Kirjath-jearim to take away the Ark. They did, and it remained with them for about a century before David brought it back to Jerusalem.[11]

Sacred space had to do with God's unique judicial place of residence. The idea of *God's judicially restricted presence* differentiated Israel from the other nations. Animism was rampant in the ancient world. Demons were believed to reside in the neighborhood. Their presence led to the development of a common theological outlook. Men believed that particular plots of land served as the residences of local gods and also the spirits of deceased male heads of household. Land was inalienable in ancient Greece, for the local god of a family had nothing to do with the god of another family. The domestic god conferred on the family its right to the soil. The family's hearth, like the family's tomb, could not lawfully be moved. Neither could either be occupied by others. Fustel wrote: "By the stationary hearth and the permanent burial-place, the family took possession of the soil; the earth was in some sort imbued and penetrated by the religion of the hearth and of ancestors." This, he said, was the origin of the idea of private property.[12] He was incorrect. Private property originated when God delegated to Adam authority over the earth, but then retained ownership of the forbidden tree. It was God's "no trespassing" declaration that established the principle of private property. God's right to exclude man was a boundary that man had to honor, on threat of death. God delegated no authority over that tree. Then He departed. His declaration of man's exclusion established private property.

Israel's religion was founded on the public rejection of all other

11. James Jordan, *Through New Eyes: Developing a Biblical View of the World* (Brentwood, Tennessee: Wolgemuth & Hyatt, 1988), p. 224.

12. Fustel de Coulanges, *The Ancient City: A Study on the Religion, Laws, and Institutions of Greece and Rome* (Garden City, New York: Doubleday Anchor, [1864] 1955), Book I, Chapter VI, p. 67.

religions, including animism. Animism is a religion of local gods. The God of Israel was the God of the whole earth. He could dwell with Israel outside the land. Thus, He could threaten the Israelites with temporary exile without threatening their existence as a holy nation. "And it shall come to pass, that as the LORD rejoiced over you to do you good, and to multiply you; so the LORD will rejoice over you to destroy you, and to bring you to nought; and ye shall be plucked from off the land whither thou goest to possess it. And the LORD shall scatter thee among all people, from the one end of the earth even unto the other; and there thou shalt serve other gods, which neither thou nor thy fathers have known, even wood and stone. And among these nations shalt thou find no ease, neither shall the sole of thy foot have rest: but the LORD shall give thee there a trembling heart, and failing of eyes, and sorrow of mind" (Deut. 28:63–65). Because God is the universal God, their exile would in no way break their covenant with Him. On the contrary, their exile would confirm the covenant: predictable corporate negative sanctions in history. The Old Covenant was primarily judicial, not geographical. It had been renewed through verbal ratification by the nation at Mt. Sinai, which was located outside the land (Ex. 19).[13] He would still be their God in a foreign land. The fact that an invading nation—Assyria—would remove most of the population and substitute foreigners as permanent residents of the land in no way polluted the land. It was Israel's sin that had polluted the land, not these foreigners (later known as Samaritans). In fact, Ezekiel told Israel that resident aliens would be under the jubilee land laws after the Israelites returned to the land (Ezek. 47:21–23).[14]

This geographical sequence of events would have been inconceivable in ancient Greece. The boundaries of each family's land were guarded by large stones called Termini. These stones were regarded as gods. "The Terminus once established according to the required rites there was no power on earth that could displace it. It was to remain in the same place throughout all ages."[15] It was the same in ancient Rome. "To encroach upon the field of a family, it was necessary to overturn or displace a boundary mark, and this boundary mark was a god. The sacrilege was horrible, and the chastisement severe.

13. Gary North, *Authority and Dominion*, ch. 20.

14. Gary North, *Restoration and Dominion: An Economic Commentary on the Prophets* (Dallas, Georgia: Point Five Press, 2012), ch. 22.

15. Fustel, *Ancient City*, II:VI, pp. 68–69.

According to the old Roman law, the man and the oxen who touched a Terminus were devoted—that is to say, both men and oxen were immolated in expiation."[16]

The Old Testament rarely mentions tombs, graves, and burial. This indicates that such matters were not considered important ritually, let alone theologically. Burial was a family matter, as when Jacob buried Rachel (Gen. 35:20). There was no officiating priest. Moses' body was not marked by any pillar, and its location was immediately forgotten (Deut. 36:4). The only reference to burial in the Mosaic law governs the death of sinners hanged on a tree: "And if a man have committed a sin worthy of death, and he be to be put to death, and thou hang him on a tree: His body shall not remain all night upon the tree, but thou shalt in any wise bury him that day; (for he that is hanged is accursed of God;) that thy land be not defiled, which the LORD thy God giveth thee for an inheritance" (Deut. 21:22–23). Touching a grave was a minor infraction: "And whosoever toucheth one that is slain with a sword in the open fields, or a dead body, or a bone of a man, or a grave, shall be unclean seven days" (Num. 19:16). All that was required was ritual sprinkling (v. 18).

The land of Israel was important as God's dwelling place. It was not important as the burial place for Israelites. *The crucial covenantal issue was ethics, not ritual-based piety*. If the nation broke the covenant, God threatened to depart from the land. He would no longer defend them Israel invasion. Where a man was buried had significance only if he was outside the land. Joseph had asked that his bones be taken out of Egypt at the exodus. This had to do with God's promise of land to Joseph's forefathers (Gen. 50:24). It was a covenantal issue, not a ritual issue. It had to do with the fulfillment in history of a covenantal promise. The fact that very few Jews returned to Israel after the exile did not make gentiles of those who remained behind in Medo-Persia. Their dispersion beyond the boundaries of Israel was implied from the beginning: the promise of zero miscarriages (Ex. 23:26)[17] and long life (Ex. 20:12)[18] were promises guaranteeing a population explosion to covenant-keeping Israel. Israel's geographical boundaries were not supposed to incarcerate the Israelites.

16. *Ibid.*, p. 69.
17. North, *Authority and Dominion*, ch. 55.
18. *Ibid.*, ch. 25.

D. Social Peace and Cooperation

The law of landmarks upheld private property. As such, it was an application of the eighth commandment: "Thou shalt not steal" (Ex. 20:15).[19] Moving a marker was a way to steal the future value of an asset. But this asset—land—had another function: marking the boundaries of the original land distribution. A theft of land was a theft of God's property. He had allocated the land in Joshua's generation. This allocation was designed to separate tribes from each other, thereby honoring Jacob's messianic prophecy regarding Shiloh.

This law governed neighbors and close relatives. It acknowledged that theft is a great temptation for those who are one's closest covenantal associates. The threat to landed property in Mosaic Israel was either one's immediate neighbors or an invading foreigner. This law implied that God would be the enforcer, since slight adjustments of markers are not easily detectable. But this also implied that men were willing to risk the wrath of God for the sake of relatively minor shifts in ownership. A major alteration of a boundary would have been obvious. Either the boundary-mover was a thief for the sake of theft, since not much property was involved, or else he planned a long-run confiscation, a little bit at a time. In either case, this was serious criminal behavior.

The nature of this crime would have led to family conspiracies. There can be little doubt that families on both sides of a landmark would have been well aware of its location. Generations of inherited property were at stake. Members of families would have known what would eventually be their inheritance. This is why family members would have had to conspire together to get away with such a theft. Anyone who attempted such a theft on his own who did not conspire with his family would have risked facing a family member in court serving as a witness for the victim. The sanctions against the false witness appear in the next section (vv. 15–21).[20]

For one family to tamper with the boundary markers of its neighbor meant that intra-tribal conflicts would increase. This was obviously a crime that threatened social cooperation in the community. When neighbors cannot trust neighbors not to steal, it is difficult for a community to enjoy the division of labor. There is too much hostility and distrust.

But the threat was more than inter-family conflicts; it was equally

19. *Ibid.*, ch. 28.
20. Chapter 45.

intra-family conflicts. Within the boundaries of the original land grant there would have been new landmarks, generation by generation. If the jubilee was actually enforced, then there would have been additional markers, generation by generation. Each male heir of each original conquering family was entitled to a portion of the original land. The parcels of land would have grown smaller over time in the face of a growing population. As the plots grew smaller, as testified to by the boundary markers, the nation would have been reminded that they could place no faith in rural land as a long-term source of income. They would have to move off the land eventually. The dominion covenant could not be fulfilled inside the boundaries of Israel. Neither could it be fulfilled inside the boundaries of a family's rural inheritance. The heirs would have to be separated from their original inheritance in the land if they were to prosper economically. The markers were to testify to this covenantal reality, generation by generation.

Conclusion

The defense of private property is necessary for the extension of social cooperation and the division of labor. This law, because it dealt with contiguous property that was marked off by visible boundaries, dealt with neighbors. The preservation of social peace in a community is a high priority. It was an even higher priority in Mosaic Israel, where enforcement of the jubilee made it highly unlikely new neighbors could become permanent residents. Disputes over property could result in long-term conflicts or even feuds. Because family conspiracies would have had to underlie any plan to move a marker, this crime threatened social cooperation even more than other kinds of theft.

"Good fences make good neighbours," wrote the American poet Robert Frost. He made a good point. Moving a fence is a lot more difficult than moving a single boundary marker. But building a fence is more expensive than sticking a marker in the ground. Unless the fence lies entirely on one person's property, thereby reducing his available land by a greater percentage than his neighbor's land, neighbors must come to an agreement regarding the width of the fence, the construction materials, etc. A good fence that separates property equally along the line of the fence implies prior good relations between neighbors. The fence helps to maintain this cooperation. A fence is a manifestation of the private property order. By allowing men to exclude others, it encourages cooperation. When

the fruits of this cooperation can readily be distributed in terms of the value which each party has put into the joint effort, there is an incentive for joint efforts. Boundaries around property acknowledge the owner's right to exclude. When these boundaries are enforced by law and social custom, the individual can more safely open the gate to others. When you have the legal right to remove visitors, you can more safely invite them for a visit. Good fences, in the broadest sense, make good neighbors, in the broadest sense.

45

THE PENALTY FOR PERJURY

> *One witness shall not rise up against a man for any iniquity, or for any sin, in any sin that he sinneth: at the mouth of two witnesses, or at the mouth of three witnesses, shall the matter be established. If a false witness rise up against any man to testify against him that which is wrong; Then both the men, between whom the controversy is, shall stand before the* LORD*, before the priests and the judges, which shall be in those days; And the judges shall make diligent inquisition: and, behold, if the witness be a false witness, and hath testified falsely against his brother; Then shall ye do unto him, as he had thought to have done unto his brother: so shalt thou put the evil away from among you.*
>
> DEUTERONOMY 19:15–19

The theocentric principle here is that God is a true witness. He does not lie. God, as the supreme Judge, does not respect persons.[1] The context of this passage is disobedience. It begins with the problem of sin, and it ends with the problem of evil. Both are aspects of ethics: point three.[2] But judgment is associated with point four: sanctions.

A. Witnesses

The law of God is to be applied impartially, meaning without respect to persons. The civil magistrate's evaluation also must not be in terms of the class (wealth) or status (social position) of either the victim or

1. Deuteronomy 1:17; 16:19; II Chronicles 19:7; Proverbs 24:23; 28:21; Lamentations 4:16; Acts 10:34; Romans 2:11; Ephesians 6:9; Colossians 3:25; James 2:1, 9; I Peter 1:17.

2. Ray R. Sutton, *That You May Prosper: Dominion By Covenant*, 2nd ed. (Tyler, Texas: Institute for Christian Economics, [1987] 1992), ch. 3. Gary North, *Unconditional Surrender: God's Program for Victory*, 5th ed. (Powder Springs, Georgia: American Vision, [1980] 2010), ch. 3.

the accused.[3] Showing respect of persons in the exercise of judgment is one of the major sins of mankind, in both church[4] and state. This was not a land law.[5]

Deuteronomy 19:15–19 presents the civil standard governing false witnesses. The standard is *lex talionis*: an eye for an eye. "And thine eye shall not pity; but life shall go for life, eye for eye, tooth for tooth, hand for hand, foot for foot" (Deut. 19:21). That which the false witness had hoped to achieve—having the court impose a specific negative civil sanction against his intended victim—he himself would bear. The cost of offering false testimony was commensurate with the cost of being a victim of false testimony. It was risky to become a false witness in Mosaic Israel. The more flagrant the false testimony, the riskier it became.

The biblical texts do not identify the witness specifically as a witness for the prosecution. This does not necessarily mean that the defense's witnesses had to participate in the stoning. If a witness had confirmed the testimony of the accused, it would seem to be excessively stringent for the law to require him to participate in the execution. On the other hand, the witness serves as a defender of the court's authority. The court has declared the accused guilty. Why shouldn't he participate in the execution? On this basis: his unwillingness to participate actively in what he regards as an unjust decision. Participation would violate his conscience. He is not to rebel against the court, but he need not become an active executioner.

Consider a witness for the prosecution in a criminal trial. The court is God's court. The state may be acting as the prosecutor on God's behalf. This was always the case in murder trials, where the victim could not bring charges. The witness for the prosecution is always an agent of this court. He is also an agent for the person bringing the accusation. God delegates to the state the authority and requirement to execute people convicted of capital crimes. The historically permanent civil sanction of death removes the convicted person from the

3. On the modern sociological distinction between class and status, see Robert A. Nisbet, *The Sociological Tradition* (New York: Basic Books, 1966), ch. 5.

4. "For if there come unto your assembly a man with a gold ring, in goodly apparel, and there come in also a poor man in vile raiment; And ye have respect to him that weareth the gay clothing, and say unto him, Sit thou here in a good place; and say to the poor, Stand thou there, or sit here under my footstool: Are ye not then partial in yourselves, and are become judges of evil thoughts? Hearken, my beloved brethren, Hath not God chosen the poor of this world rich in faith, and heirs of the kingdom which he hath promised to them that love him? But ye have despised the poor. Do not rich men oppress you, and draw you before the judgment seats?" (James 2:2–6).

5. On land laws, see Appendix J.

local jurisdiction of the earthly court and transfers him into God's heavenly court. The witness is therefore acting as God's designated judicial agent through the court.

What about a witness for the defense? Witnesses for the defense were also under court sanctions. They were not allowed to lie under oath. What if they did? Were they under the threat of the court's sanctions? Yes. False witnessing was not allowed. Then what was the appropriate sanction? We return to the *lex talionis*: eye for eye. If they deliberately testified falsely, thereby persuading the court to release a guilty person back into society, they came under the sanctions that should have been applied to him. The court cannot lawfully prosecute the defendant a second time if he has been declared innocent by a jury,[6] but it can prosecute the perjurer. This is not double jeopardy. *The perjurer judicially represents the criminal whose testimony the perjurer has set free*. The criminal has been set free; the perjurer takes his place. Judgment is upheld. The appropriate civil sanction is applied. The victim is not left with a sense of injustice. The person who inflicted the damage has not paid for his crime, but his substitute has. This is an application of the biblical principle of *substitutionary atonement*. If someone who is in a lawful position to pay the victim does so on behalf of the criminal, the victim is not to pursue the matter any further. The false witness is in a legal position to make this substitutionary payment, and the court is supposed to insist that he make it. The text does not say this specifically with respect to a witness for the defense, but the principle of the substitionary atonement makes it clear that such a substitute is legitimate. When the sanction is imposed on the false witness, the judicial matter is settled. Peace may then be restored to society. This is a major goal of biblical law. The accused should be placated when the court imposes on the conspirators the penalty that would have been imposed on him.

B. Common Grace, Common Oath, and Common Sanctions

What about witnesses who were not circumcised? Were they permitted to testify? Here I must make deductions based on what is required

6. This assumes that the common law's prohibition against double jeopardy is enforced. I regard this principle is as biblical. When God declares a man not guilty, he is forever not guilty (Rom. 8:39). The state in this sense is to imitate God. When double jeopardy is prohibited by civil law, this restrains the state from becoming tyrannical, bankrupting innocent people by endless trials. The principle does not restrict the enforcement of ecclesiastical law. Gary North, *Crossed Fingers: How the Liberals Captured the Presbyterian Church* (Tyler, Texas: Institute for Christian Economics, 1996), pp. 831–32.

of witnesses for the prosecution. But this raises questions regarding the basis of judicial decision-making.

The problem here is the theory of knowledge. Knowledge is not neutral. If this is the case, then the Christian philosopher should ask: What is the epistemological common ground between covenant-keepers and covenant-breakers? The Calvinist philosopher-theologian Cornelius Van Til said it is the common knowledge of God in every person—the sense of deity.[7] It is also the common ground of creation, both Adamic and general.[8] The covenant-breaker suppresses this knowledge (Rom. 1:18–20).[9]

How can a covenant-breaker's testimony be regarded as equal in judicial value to a covenant-keeper's testimony? The answer is in the existence of court sanctions. A convicted perjurer will suffer the same sanctions that would have been imposed by the court on his victim, had his perjury been successful. In other words, because all witnesses are under the same negative sanctions, their oaths before the court are considered equally valid. These confessions are not eternally equal, but they are historically equal.

God's common grace[10] allows covenant-breakers to interpret the world sufficiently accurately to enable them to live productive lives. One aspect of this productivity is their ability to perceive and interpret events sufficiently accurately as to make their words reliable in business affairs. This same principle applies to their oath-bound court testimony.

The Mosaic civil sanction against perjury by a witness is clear: the perjurer must suffer the same penalty that would have been applied to his potential victim. He has sought to impose civil sanctions; now those sanctions are imposed on him.

The biblical principle of an eye for an eye—the *lex talionis*—is imposed on a convicted false witness. If he testified falsely against the accused, and this is discovered by the judges, then he becomes subject to the penalty that would have been imposed on the victim. This threat brings civil sanctions into the picture. The witness comes

7. Cornelius Van Til, *The Defense of the Faith*, rev. ed. (Philadelphia: Presbyterian & Reformed, 1963), ch. 8.

8. Greg L. Bahnsen, *Van Til's Apologetic: Readings and Analysis* (Phillipsburg, New Jersey: P&R, 1998), pp. 418–20.

9. Gary North, *Cooperation and Dominion: An Economic Commentary on Romans*, 2nd ed. (Dallas, Georgia: Point Five Press, [2001] 2012), ch. 3.

10. Gary North, *Dominion and Common Grace: The Biblical Basis of Progress* (Tyler, Texas: Institute for Christian Economics, 1987).

under civil sanctions, which means that he comes under the laws of the civil covenant. But must he confess faith in the God of the civil covenant in order to come under its sanctions?

The witness for the prosecution was required by law to cast the first stone. Did this make him a judge? Wasn't he imposing judgment in the name of God? Yes, but only at the instruction of the court. He did not declare judgment; he merely contributed information to those who would declare judgment. As an agent of the court, he did cast the first stone. He did not do this on his own authority.

Because he was not a citizen, he did not evaluate the evidence, i.e., he did not serve as a judge. He did act on behalf of the court in casting the first stone. This sanction would have been imposed on him had he been convicted of perjury. He was under oath-bound negative civil sanctions. He was therefore bound by an oath of obedience, irrespective of the absence of his personal confession of faith in the God of the covenant. A civil oath invoked covenant sanctions: the stones of justice. If the court convicted the accused, the prosecution's witness would participate in the execution as one who was formally under the court's civil sanctions. But he was already under these civil sanctions as a resident of Israel.

Only the citizen was eligible to declare God's judgment as a judge, an office closer to a modern juror than a robed judge. The non-citizen did not possess this authority. A person did not have to be a citizen in order to testify. The casting of stones was not a mark of citizenship; it was a mark of subordination to the Mosaic civil covenant, including its sanctions. What was invoked by the non-citizen witness was not God's direct sanctions, either on Israel or on him; rather, it was God's indirect sanctions through the court. He who would be required by law to cast the first stone would also have the first stone cast at him if he was convicted of perjury in a capital trial. The sanction was valid for all those who came under the Mosaic civil covenant and who then committed capital crimes. This included strangers. But if they subordinated themselves to these sanctions, they also had the authority to impose them, as agents of the court, though not as citizens. They served as agents of the court when they served as witnesses for the prosecution.

C. The Cost of Obtaining Accurate Information

The punishment should fit the crime. This is the biblical principle of justice that undergirds the *lex talionis*. Similarly, the court's cost of

obtaining accurate information should be proportional to the crime. A society that spends as much money in court to convict a bicycle thief as it does to convict a murder is indirectly subsidizing murderers. Resources are not unlimited. Court costs are positive. If the court is spending as much to prosecute bicycle thieves as murderers, the society will experience fewer stolen bicycles and more murders. The court should not require the same thoroughness of investigation in a minor case as it does where a person's life is on the line. A society that cannot allocate court expenses in terms of the severity of the criminal acts under examination will find itself burdened with injustice. This is the condition of modern Western jurisprudence. Perhaps the best example is a case that was settled in November, 1996, a libel trial that had become the longest trial in English history: over 292 days. The lawsuit had been brought by the McDonald's Corporation against a pair of unemployed people who had accused the company of having promoted poor nutrition, exploited children, encouraged litter, mistreated animals, and destroyed rain forests. The couple eventually lost the case, but they had no money to pay the plaintiff's huge legal fees, as English law requires.[11]

The biblical law of perjury helps to balance the court's cost of obtaining information. The court does not threaten a witness with the risk of subsequently being brought to trial and convicted of a capital crime for having lied regarding a minor crime. If the threat is too great, witnesses will not readily volunteer. On the other hand, witnesses in a capital crime will be hesitant to participate in a conspiracy to bring false information before the court. The court's benefit (i.e., reduced cost) of screening out false information by means of a threat of perjury sanctions is partially offset by its cost of not obtaining accurate information because of witnesses who fear testifying.

Because false testimony is easier for one person to commit than many, this law mandates multiple witnesses for the prosecution. "One witness shall not rise up against a man for any iniquity, or for any sin, in any sin that he sinneth: at the mouth of two witnesses, or at the mouth of three witnesses, shall the matter be established" (v. 15). The testimony of one false witness is insufficient to convict the accused unless supporting impersonal evidence is very strong. But false witnesses involved in a conspiracy face a problem: all of them know that they are lying. They know that for their lie to be successful, the defense must

11. Sarah Lyall, "Britain's Big 'McLibel Trial' (It's McEndless, Too)," *New York Times* (Nov. 29, 1996).

not be able to prove collusion among the witnesses. But more than one person is involved in the deception. If one participant's conscience gets the better of him, he may reveal the existence of a conspiracy.

One way for the defense to persuade a conspirator to admit the truth is to offer him future immunity for his true testimony and an accusation against the others. The principle of victim's rights allows the victim to offer forgiveness to anyone who has victimized him. He can be selective in this judgment. If the criminal has offered to confess his sin, the victim is in a legal position to forego the application of the biblically mandated sanctions.[12] The state must honor the victim's assessment.[13] In modern law, the criminal who testifies for the state is said to offer state's evidence. In a case of false witness, a perjurer offers either victim's evidence or defendant's evidence.

Because of this possibility, the larger the conspiracy, the greater the likelihood that the conspiracy will be revealed by one of the participants. Betrayal does not require either a stricken conscience or an offer of immunity from the victim. The very nature of the motivation of secrecy can lead to a betrayal. The sense of power that knowing a secret conveys to the participants can itself lead to betrayal. Georg Simmel wrote in 1908: "The secret contains a tension that is dissolved in the moment of revelation. This moment constitutes the acme in the development of the secret; all of its charms are once more gathered in it and brought to a climax. . . . The secret, too, is full of the consciousness that it *can* be betrayed; that one holds the power of surprises, turns of fate, joy, destruction—if only, perhaps, of self-destruction. For this reason, the secret is surrounded by the possibility and temptation of betrayal. . . ."[14] The betrayer becomes a big shot—even bigger, perhaps, than what he would have been had he remained a cooperating participant in the conspiracy.

A prosecuting attorney is not allowed knowingly to bring in a false witness. Neither is a defense attorney. They are agents of the court, bound by the court's rules of procedure. A conspiracy to mislead the court brings the court's penalty on any attorney who knowingly uses a false witness to testify. The goal of the court is to obtain accurate information. A conspiracy to mislead the court is a serious infraction. It is an assault on the court and an assault on the accused.

12. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 3, *Tools of Dominion* (1990), ch. 33:F.

13. *Idem*.

14. *The Sociology of Georg Simmel*, trans., ed. Kurt H. Wolf (New York: Free Press, 1950), pp. 333–34.

By requiring multiple witnesses for the prosecution (accusation), the state makes possible cross-examination of more than one person. Their stories can be compared and evaluated for consistency. Lies can be detected more easily. The prosecution has to prove its case. The defense has an easier time of it. The Bible does not teach explicitly that the accused must be assumed to be innocent, but the person who is making the accusation has a greater burden of proof. In this sense, the accused is presumed to be innocent. The conflicting stories are not assumed to be of equal weight judicially. This would lead to a stalemate. In the case of a stalemate, the accused would not be convicted by the court. The accused has the advantage.

D. Perjury Sanctions Threaten Both Parties

If a man brings an accusation against another, and the accused says that the other man is not telling the truth, this is not necessarily the same as saying that the accuser is lying. The accuser may be misinformed. But if the accused says that the accuser is a false witness who is deliberately telling a lie, then the accused is putting the accuser at risk. The accused must not commit perjury. He must not accuse the other person of telling a lie if the accuser is telling the truth.

What if the accused person resorts to perjury? What are the consequences? The *lex talionis* principle applies. First, if he stole something, he owes double restitution to his victim (Ex. 22:4).[15] But if in addition he has lied about the accuser, saying that the accuser has committed perjury, he has not merely stolen; he has attempted to place his accuser under penalties. The lying criminal will then have to pay double restitution on these penalties, as well as the original restitution payment. When the criminal compounds the sin, he compounds his obligation.

Consider the alternative interpretation: the convicted person does not owe double restitution for his false accusation against the accuser. If his ineffective lie on the witness stand goes unpunished, he owes double restitution for the original crime, which he would have owed anyway. Lying to the court would then be a rational decision: the criminal is no worse off by his false accusation against the victim, and he may reduce the likelihood of being convicted for the theft. This would subsidize lying on the witness stand. But biblical law's goal is to reduce criminal behavior and protect the victim. Thus, the implication of this law is that lying to the court increases the liar's risk. Dou-

15. North, *Authority and Dominion*, ch. 43.

ble restitution on the original infraction is insufficient. It repays the victim for the original infraction; it does not repay him for the second.

E. Priests and Judges

The conflicting parties "shall stand before the LORD, before the priests and the judges, which shall be in those days; And the judges shall make diligent inquisition" (vv. 17b–18a) First, the joint assembly of priests and judges constituted a representative assembly. This assembly represented God. To stand before this assembly was to stand before the Lord. The priests and judges would hand down judgments in the name of the Lord: ecclesiastical and civil. They served as spokesmen for God in history. In civil affairs, a court speaks for God. Under the Mosaic covenant, the priests had to be present in this civil assembly. Just as the priesthood's representative agents had to blow the two trumpets in order for Israel's holy army to be lawfully assembled and sent into battle (Num. 10:5–8), so did priests have to be present at this court. The priests had a civil function in Mosaic Israel: to offer counsel regarding the written law. They also were in a position to excommunicate a false witness. They gathered information by being present in civil court. This did not restrict them from conducting a separate trial in a church court, but they were there to hear the evidence in civil court.

The judges conducted the inquiry, according to this text. The priests were there to provide counsel and legitimacy, but the civil representatives conducted the investigation. The court might hand down negative sanctions. The investigatory work of the court was therefore conducted by civil officers.

Today's courts are strictly civil. In the United States, a witness for decades was sworn in by having him repeat an oath to tell the truth, the whole truth, and nothing but the truth, so help him God, with his left hand on a Bible, Old and New Testaments, and his right hand pointed skyward. This was a Christian oath because of the presence of a Christian Bible. In the late twentieth century, this practice was modified. Atheists affirmed that they would tell the truth. They did not need to invoke God's name or place a hand on the Bible. They came under the sanctions of the earthly court. They did not imply through affirmation their belief in a heavenly court. Their testimony was accepted as equal in authority to any other witness's testimony. This procedure is legitimate biblically. The witness is under the court's sanctions, just as a stranger was in Mosaic Israel.

The question arises: What about the presence of a priest on the court? Covenantally, there are no priests today, for the sons of Aaron are gone, and there is no altar of sacrifice. The office is as defunct as the office of prophet.[16] Does this fact invalidate the Mosaic law governing civil courts? Or is there an implied continuity of office from Old Covenant to New Covenant? Is the Trinitarian ecclesiastical minister the covenantal heir of the Mosaic priest? Should an ecclesiastical minister or ministers be present on the court to provide counsel and legitimacy? A civil magistrate is a minister (Rom. 13:4).[17] He speaks in God's name. Must a civil court also include ecclesiastical ministers? To answer all this, we must first consider the structure on Mosaic civil government.

F. Federalism: Mosaic vs. Enlightenment

The Mosaic law provided a system of federalism between church and state. The church was part of Israel's federal judicial order. The civil government could not unilaterally speak in God's name when handing down formal decisions in which sanctions were involved. It could not unilaterally start a war nor decide between witnesses. In both cases, a representative of the church had to be present. This was true of Israel's supreme court (Deut. 17:8–13).[18]

1. State Jurisdiction

Modern federalism seeks a balance of power and authority within the divisions of civil government: executive, legislative, and judicial; national, state, and local. But modern federalism is exclusively civil. It assumes that the church has neither a legitimate claim nor any legitimating function in civil government. The biblical doctrine of the separation of church and state has become a doctrine of exclusively secular authority: the separation of supernatural religion and state. Humanism proclaims that those ministers known as civil magistrates possess exclusive authority to speak in the name of God in civil cases. The state is said to have exclusive jurisdiction—law-speaking—in applying physical and monetary negative sanctions. The theocracy of modern federalism is an exclusively civil theocracy. *The autonomous people rather than God are said to legitimize civil government*. This corporate sovereign, whether Rousseau's General Will or Madison's "We,

16. Chapter 33.
17. North, *Cooperation and Dominion*, ch. 11.
18. Chapter 41.

the People," must be represented by a voice of authority which speaks in the name of the sovereign and him only. This sovereign is seen as exclusively natural, not supernatural. Therefore, no ecclesiastical representative is said to possess lawful authority in civil matters except insofar as he may be a citizen, like any other citizen.[19] The church has no representation in the state. While there are exceptions to this general rule, such as bishops who sit in England's House of Lords, which does not initiate legislation, the West has moved toward the elimination of church authority in civil government since the late eighteenth century.

The doctrine of separation is justified by modern, post-Enlightenment Christians in the name of protecting the church from secular influence. But this argument cuts two ways. It is used by secularists to protect the state from Christian influence. The idea is that there is some neutral common law that derives its authority from something broader than the Bible or Christianity. This broader judicial authority is considered superior to biblical authority in the realm of politics, which today encompasses just about everything.

The kingdom of politics is as comprehensive in its claims as is the kingdom of God. Christians today have accepted the majority of these claims, reserving only small zones of supposed autonomy from the kingdom of politics. These claims of immunity are constantly being challenged by the state. To accommodate the claims of the state, Christians have all but abandoned the ideal of the kingdom of God in history as a realm as comprehensive as Adam's kingdom. The suggestion that the Great Commission extends as far as Adam's Fall did is rejected by most Christians, for such a suggestion raises the issue of theocracy: the rule of God's law. The Great Commission has been redefined to include the Christian family, the Christian church, the humanist-accredited college and theological seminary, and the Christian school—usually state-certified—but not the civil government.[20]

2. Biblical Federalism

This passage proves that in the Mosaic civil order, the priesthood had a role to play in civil government. To deny that this role has been

19. In the United States Constitution (1788), the outlawing of religious test oaths for U.S. government office-holders was the means of asserting this autonomy (Article VI, Section III). Gary North, *Political Polytheism: The Myth of Pluralism* (Tyler, Texas: Institute for Christian Economics, 1989), pp. 385–85, 389–92.

20. Kenneth L. Gentry, Jr., *The Greatness of the Great Commission: The Christian Enterprise in a Fallen World* (Tyler, Texas: Institute for Christian Economics, 1990).

transferred to the ecclesiastical ministry under the New Covenant is to argue for a covenantal discontinuity. The New Covenant's abolition of the Mosaic priesthood is the obvious way to make such a claim. But if the abolition of the priesthood becomes the basis of the discontinuity, then some aspect of the Mosaic priesthood that was connected to animal sacrifices has to be associated with civil justice. With the abolition of the sacrifices, the ecclesiastical ministry has supposedly lost its role in civil justice. If, however, the basis of the priest's participation in a civil court was the priest's expertise in biblical law and the political need to create *a federalism of covenantal authority in civil justice*, then there is no civil discontinuity between the Mosaic priesthood and the New Covenant's ecclesiastical eldership. In this case, modern humanistic civil justice is illegitimate biblically and must be reformed. The monopoly of the secular state over civil justice then cannot find justification in the Bible.

The doctrine of the complete separation of church and state has been a convenient way for Christians to escape any responsibility for dealing with questions of civil government and political theory from an explicitly biblical viewpoint. They have preferred to defer to today's ideological heirs of the Enlightenment Whigs[21] or Enlightenment social democrats[22] on such matters. To justify this deferral, they have adopted some version of secular natural law theory, long after Darwinism had completely undermined the philosophical basis of secular natural law theory.[23] In fact, Christian social theorists are among the last remaining defenders of natural law theory. The predecessors of the humanists with whom they seek an accommodation had abandoned the theory by 1900. From the early days of the church, natural law theory has been the basis of the surrender by Christian theologians and moralists to humanists. The habit seems unbreakable, even when the humanists have abandoned natural law theory.

Conclusion

The text says that the judges had the responsibility of investigating and evaluating the conflicting testimonies of rival parties. They had to decide if one person was deliberately lying. If he was, then he was

21. See Appendix H: "Week Reed: The Politics of Compromise."

22. David Chilton, *Productive Christians in an Age of Guilt-Manipulators: A Biblical Response to Ronald J. Sider*, 3rd ed. (Tyler, Texas: Institute for Christian Economics, [1981] 1996).

23. R. J. Rushdoony, *The Biblical Philosophy of History* (Vallecito, California: Ross House, [1969] 2000), p. 7.

to be placed under a civil sanction. The sanction was clear: whatever penalty the state would have imposed on the victim had the testimony of the false witness been believed. Equity in this instance was based on *lex talionis*: eye for eye. The justification was the elimination of a public evil: "so shalt thou put the evil away from among you."

Then why were the priests there? The text does not say. I think there are three reasons. First, to provide counsel regarding God's written law. Second, to gather information in order to declare a false witness excommunicate. There would be a double witness against false witness. Third, to provide legitimacy to the court.

There had to be civil sanctions if there was civil law. The sanction was to be commensurate with the infraction. Because the sanction was the same in both cases, the rule of law was affirmed. There could be no favoritism on the part of the court. The fear of offering false witness was to be comparable to the fear of being convicted by false witness. The false witness had to consider the consequences of his testimony. He had to count the cost (Luke 14:28–30).[24] He had to consider the damage that his testimony would cause another person. To assist him in his process of cost accounting, the Mosaic law specified that if he was shown to be a false witness, he would suffer the same penalty that he had sought to inflict on his victim.

There is no indication that this aspect of the Mosaic law has been annulled by the New Covenant. On the contrary, the New Covenant affirms the principle. More than this: the New Covenant order was sealed forever by God's final judgment against Israel's false testimony. The false testimony given against Jesus Christ—that He was not who and what He said He was—led to the destruction of Jerusalem in A.D. 70, thereby ending forever the Old Covenant order.[25] The Sanhedrin had sentenced Christ to death, knowing that their procedures were illegal, even in terms of their own law.[26] God sentenced Old Covenant Israel to death, a sentence carried out in A.D. 70.

Is there continuity of the other aspect of this law, i.e., the presence of priests in a civil court's procedure? The presence of representatives

24. Gary North, *Treasure and Dominion: An Economic Commentary on Luke*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 35.

25. David Chilton, *The Days of Vengeance: An Exposition of the Book of Revelation* (Ft. Worth, Texas: Dominion Press, 1987).

26. Under the Pharisees' interpretation of Judaic law, if the court paid a witness, this invalidated his testimony. *Bekhoreth* 4:6, in *The Mishnah*, ed. Herbert Danby (New York: Oxford University Press, [1933] 1987), p. 534. The court had paid Judas 30 pieces of silver to identify Jesus, i.e., to provide witness that this was the man they planned to accuse. "Then Judas, which had betrayeth him, when he saw that he was condemned,

of both church and state made the covenantal implications clear. *The state must not hand down judgments irrespective of the church's interpretation of what constitutes righteous judgment*. The priest was a counsellor and a legitimizer. He did not conduct the actual investigation, but he could respond to questions regarding equity.[27] His main assignments in this case were to serve as a source of legitimacy for the court and to protect the citizenry from a monopolistic civil government that would refuse to acknowledge any authority but its own in rendering civil judgment. There was to be no absolute separation of church and state in Mosaic Israel. This constituted a system of federalism. It refuted the idea of civil autonomy/monopoly.

The would-be false witness was warned to count the cost of his action. This cost was the same as the cost borne by the victim of his false testimony. There was an equality of sanctions. This is why Adam's rebellion was attempted regicide and parricide.[28] This is why there was a death penalty attached to the eating of the tree's fruit. Adam had in principle had agreed to act as the serpent's agent in bringing a covenant lawsuit against God by publicly challenging God's supposedly false claim of absolute authority. By violating the tree's boundary, he handed down judgment against God in the name of the serpent. The proof that his accusation was false was his own death. He had failed to count the cost accurately.

God, on the day of judgment, will serve as a witness. If He has granted salvation by grace through faith, He will serve as a witness for the defense.

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repented himself, and brought again the thirty pieces of silver to the chief priests and elders, Saying, I have sinned in that I have betrayed the innocent blood. And they said, What is that to us? see thou to that" (Matt. 27:3–4). Then the execution of Jesus took place. Judas repented of his act before the sentence was carried out. The Jews did not. Judas paid with his life (v. 5). So did Old Covenant Israel.

27. This indicates that God's examination of Adam and Eve was done in His judicial capacity as king rather than priest.

28. Gary North, *Sovereignty and Dominion: An Economic Commentary on Genesis* (Dallas, Georgia: Point Five Press, [1987] 2012), Appendix E.

46

A HIERARCHY OF COMMITMENTS

> *And the officers shall speak unto the people, saying, What man is there that hath built a new house, and hath not dedicated it? let him go and return to his house, lest he die in the battle, and another man dedicate it. And what man is he that hath planted a vineyard, and hath not yet eaten of it? let him also go and return unto his house, lest he die in the battle, and another man eat of it. And what man is there that hath betrothed a wife, and hath not taken her? let him go and return unto his house, lest he die in the battle, and another man take her.*
>
> DEUTERONOMY 20:5–7

These laws related to participation in God's holy army. They therefore related to citizenship in Israel. These laws were aspects of point three of the biblical covenant: the ethical and judicial separation of God's people. These were holiness laws. Holiness is an aspect of part three of the biblical covenant.[1]

A. The Economics of the Firstfruits Offering

The first two laws of military exemption had something to do with the right to enjoy the fruits of one's labor. Death on the battlefield was not to separate a man from these fruits. Yet the exemptions were not permanent. In the case of a newly married man, the exemption lasted one year (Deut. 24:5). The fourth exemption, fear, I cover in the next chapter.

The first two laws of military non-participation were land laws: new house, new vineyard.[2] They had to do with sacrifices: priestly.

1. Ray R. Sutton, *That You May Prosper: Dominion By Covenant*, 2nd ed. (Tyler, Texas: Institute for Christian Economics, [1987] 1992), ch. 3. Gary North, *Unconditional Surrender: God's Program for Victory*, 5th ed. (Powder Springs, Georgia: American Vision, [1980] 2010), ch. 3.
2. On land laws, see Appendix J.

These sacrifices no longer exist. Neither does the priesthood. The third exemption was a seed law: newlywed.[3]

In what way did a man's right to enjoy a preliminary return on a long-term capital investment reflect a property right of God? I offer three plausible answers: the tithe, the firstfruits offering, or both.

The problem with designating the tithe alone as God's property right rather than the firstfruits offering (or both) is that the tithe is God's permanent right of return. The two exemptions were not permanent. In contrast, the firstfruits offering was a preliminary offering in addition to the tithe. The firstfruits offering was a kind of down payment to God for God's down payment on the harvest. Firstfruits were offered three times on the day after Passover (Lev. 23:1–12), at the feast of Firstfruits (Pentecost) (Ex. 34:22), and at the feast of Booths (Tabernacles) (Ex. 23:16; 34:22; Lev. 23:39–40). In the case of Booths, when the harvest was complete, others in the community were to be invited in to share the wealth.

> Thou shalt observe the feast of tabernacles seven days, after that thou hast gathered in thy corn and thy wine: And thou shalt rejoice in thy feast, thou, and thy son, and thy daughter, and thy manservant, and thy maidservant, and the Levite, the stranger, and the fatherless, and the widow, that are within thy gates. Seven days shalt thou keep a solemn feast unto the LORD thy God in the place which the LORD shall choose: because the LORD thy God shall bless thee in all thine increase, and in all the works of thine hands, therefore thou shalt surely rejoice (Deut. 16:13–15).[4]

To understand what was involved in this law of military exemption, we must begin with a fundamental biblical economic principle: *the individual serves as the economic agent (steward) of God*. God had delegated to individual Israelites the task of building up the capital base necessary to increase His firstfruits. This is why a producer's right to collect the firstfruits of a newly finished capital asset—house or vineyard—could not lawfully be challenged by the state in Mosaic Israel, even in wartime. *The producer's initial claim on the fruits of his newly completed stream of income was superior to the state's claims on his life*. This, in turn, reflected God's prior claim of firstfruits on agricultural output. The firstfruits offering of the vineyard would be paid to the priesthood, who in turn held a veto on the war (Num. 10:8; Deut. 20:2).

But why did a newly built home offer an exemption? There was no firstfruits offering required for dedicating a new home. Answer: *an*

3. On seed laws, see Appendix J.
4. Chapter 35.

Israelite's home was analogous to God's home, which was the tabernacle-temple. Although no law required it, Solomon dedicated the newly constructed house of God by sacrificing 22,000 oxen and 20,000 sheep (I Kings 8:63). Thus, a sacrifice of dedication, while not legally required, was appropriate when a man finished building his home. He could enjoy the fruits of his labor, just as God, in His capacity as a cosmic house-builder,[5] enjoyed the blessings of dwelling in a new home.

The firstfruits were token payments to God: a kind of down payment on the future tithe. They were a man's statement of faith in God's long-term future bounty, as well as thanks for God's preliminary manifestation of blessing.

B. Inheritance and Battle

Chapter 20 deals with military affairs. Israel's inheritance of Canaan would be the result of military action. The physical disinheritance of the Canaanites through their execution on the battlefield was to be the operational means of claiming the inheritance. *Military sanctions were to be the means of this long-prophesied inheritance/disinheritance*. That is, point four of the biblical covenant, sanctions, was the prerequisite of point five.

The laws in this passage applied to a settled population: settlement in the post-conquest world. This generation as yet had no houses, no vineyards. They had not become dwellers in the Promised Land. They were still outsiders. So, this passage presumed a forthcoming victory. These laws would go into effect in Israel's history only after the conquest. In this sense, this passage was prophetic. It assumed the transfer of the inheritance. More than this: these laws had to do with the maintenance of the individual's inheritance, i.e., enjoying the firstfruits of house, vineyard, or wife. *The focus of these laws was on preserving an inheritance*. One man sows; another man is therefore not to reap. This was to be the case in Israel for righteous men. *He who sows is supposed to reap*. Not even the needs of the military were to supersede this principle. Only unrighteousness is to break the legal pattern of sowing and reaping. Canaan was soon to become an example of such unrighteousness.

> And it shall be, when the LORD thy God shall have brought thee into the land which he sware unto thy fathers, to Abraham, to Isaac, and to Jacob,

5. Meredith G. Kline, *Images of the Spirit* (Grand Rapids, Michigan: Baker, 1980), pp. 17–18, 20–21, 35–42.

> to give thee great and goodly cities, which thou buildedst not, And houses full of all good things, which thou filledst not, and wells digged, which thou diggedst not, vineyards and olive trees, which thou plantedst not; when thou shalt have eaten and be full; Then beware lest thou forget the LORD, which brought thee forth out of the land of Egypt, from the house of bondage. Thou shalt fear the LORD thy God, and serve him, and shalt swear by his name. Ye shall not go after other gods, of the gods of the people which are round about you (Deut. 6:10–14).

There is *a fundamental principle of individualism* in the Deuteronomy 20 passage. The defense of the individual's legal right to enjoy the firstfruits of his labor was superior to the military defense of the nation.

God had not instructed Moses to convey these rules of post-conquest warfare to the exodus generation. There was no need. First, they were not the fourth generation that was scheduled to inherit (Gen. 15:16).[6] Second, He knew that they were an army of slaves: fearful of everything. They were in no spiritual condition to conquer Canaan.

C. No Conscription

The tribes were supposed to respond to a call to military action. Yet it is clear from Deborah's song that some tribes had not responded (Jud. 5:16–17). This indicates that the Mosaic law offered no formal negative sanctions to the central government that would enable it pressure the tribes to assemble. The Levite whose concubine had been raped to death by the Benjaminites cut her corpse into pieces and sent them to the other tribes (Jud. 19:29). This was a form of moral suasion. There was no legal compulsion available to him.

Could a tribe compel each adult male to assemble in military formation? There was no law that mandated this. The exemption laws of Deuteronomy 20 mandated that the officers permit any member who qualified under the law to return home. Anyone could claim fear and thereby be exempted. Perhaps not many men would have done this, for fear of shaming themselves, but the other three exemptions were easy ways out. All three involved building toward the future, i.e., future-oriented activities. There was no shame involved in claiming one of these exemptions. What is important to understand here is the principle that a man's demonstrated but unfulfilled *future-orientation*—the figurative harvest sown but not reaped—was more im-

6. Gary North, *Sovereignty and Dominion: An Economic Commentary on Genesis* (Dallas, Georgia: Point Five Press, 2012), ch. 23.

portant to Israel than his participation in the army. The building of familistic capital was more important than participation in war. The creation of streams of personal income was more important for the nation than adding numbers to the army.

If a man could be exempted immediately preceding the battle, was there compulsion in assembling? That is, with exemptions so easy, what would have pressured men to assemble and then march off to war? If there were no external, civil pressures available to the state, why would there have been these exemptions? One reason occurs: ecclesiastical pressure. Citizenship in Mosaic Israel was based on two things: circumcision and eligibility for service in God's holy army. If a man refused to answer the call to muster the troops, would he have lost his citizenship? Was mere military eligibility sufficient to maintain citizenship? Or was actual attendance at the mustering required?

Deborah did not declare that members of the tribes of Reuben, Asher, and Dan had lost their citizenship (Jud. 5:16–17). They suffered the negative sanction of being written into her song of victory in an unfavorable light. They would have had the option of going home on the basis of fear, but they never even showed up. They were not willing to admit in public at the time of battle that they were too afraid to fight. This is why Deborah criticized them: not for their fear but for their unwillingness to show up and admit in public as tribes that they were too afraid to fight.

The Mosaic law had no specified negative sanctions against non-appearance. *Thus, there was no lawful military conscription under the Old Covenant*. There was neither a written law nor specified sanctions that compelled anyone to answer the trumpets' call. The state had to rely on men's sense of duty to motivate them to answer the call. Even after responding, there was another opportunity to return home.

D. An Army of Holy Warriors

The goal of these exemption laws was two-fold. First, no fighting man should suffer second thoughts about having completed a long-term project that he did not have time to enjoy. Second, the army had to rely on God more than its numbers. I discuss the second concern in the next chapter.

The first concern had to do with a warrior's sense of commitment. Any warrior who had valid reasons to hold back in the heat of battle, especially offensive battle, was told to go home. These reasons had to do with the future. He had created a capital asset that was to provide

him with a stream of income: home or vineyard. He had not enjoyed any benefits from that capital asset. He had not paid the priesthood its lawful firstfruits offering. A similar logic governed the third exemption: a wife back home. In the case of a new wife, the exemption was even more specific: a year's mandatory exemption. His wife's interests were also at stake. The presumption was that the man would have time to impregnate his wife in a year. The issue of biological heirs was a major one in Mosaic Israel. This had to do with the seed laws. The levirate's marriage provisions were associated with these laws: "If brethren dwell together, and one of them die, and have no child, the wife of the dead shall not marry without unto a stranger: her husband's brother shall go in unto her, and take her to him to wife, and perform the duty of an husband's brother unto her. And it shall be, that the firstborn which she beareth shall succeed in the name of his brother which is dead, that his name be not put out of Israel" (Deut. 25:5–6).[7]

Any civil leader who began making long-range plans for indulging himself in a war faced a potential veto by his army: prior capital formation. A man who expected to be called into battle could start building a house, planting a vineyard, or courting a woman if he wanted to avoid serving in the army. If he got the house built, the vineyard planted, or the girl married him before the silver trumpets were blown, he could come home after the mustering but before the battle. Preparations for unpopular wars would have increased capital formation in Israel, at least in the three areas of housing, wine, and families. While some men fought, others would be enjoying the fruits of their labors. *This was a military anti-recruiting system designed to keep rulers from indulging in the sin of empire*. Sitting at home by the fire, a glass of wine in hand, with your new wife on your lap surely beats slogging through the mud in a foreign war of empire. "Make love, not war" was a law governing Israelite marriage. Any call to the holiness of a cause would have to be believed by the holy warriors in order for the leaders to recruit an army. Mercenaries would not guarantee victory.

A wise king of Israel would have understood this threat to his plans. "Or what king, going to make war against another king, sitteth not down first, and consulteth whether he be able with ten thousand to meet him that cometh against him with twenty thousand? Or else, while the other is yet a great way off, he sendeth an ambassage, and

7. Chapter 64.

desireth conditions of peace" (Luke 14:31–32).[8] The military service exemption laws, when enforced, would have kept the kings honest. It would have kept them from high-risk international displays of their own power.

Conclusion

First, citizenship in Israel was based on eligibility for service in God's holy army.[9] Second, the state did not possess final authority over priests and citizens. Warfare was made holy by acclamation by the priesthood. Without their support, the war was illegal. There could be no numbering and no atonement money, which had to be paid to the priests (Ex. 30:12).[10] Third, mandatory military conscription was illegal. This was a major restriction on the expansion of state power, which increases dramatically in wartime and is rarely reversed after the war.[11] The hierarchy of military authority in Mosaic Israel reflected the hierarchy of mandatory payments: priesthood, head of household, state.

Israel as a *holy army* was a *judicially restricted army*. The army had to be called into action by priests. There were two opportunities for the priesthood to veto a war: prior to assembling the army and immediately prior to the war (Num. 10:2–8). Individuals also had a right to return home. This placed the civil rulers at a disadvantage in any schemes for building an empire.

There were superior claims on every warrior's commitment. These were in part economic and in part covenantal. He did not owe a sacrifice for a newly dedicated house, but such sacrifice was appropriate for God's house, so presumably it was appropriate for a man's house. He did owe a firstfruits offering for his newly planted vineyard. Until that debt was paid at the next national feast, he was to depart from the battlefield. He was also to return to his new bride, for her sake (Deut. 24:5) and for his (Deut. 20:7). These commitments took precedence over the state's right to call citizens into battle.

These legitimate commitments, as well as the personal benefits as-

8. Gary North, *Treasure and Dominion: An Economic Commentary on Luke,* 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 35.

9. Gary North, *Sanctions and Dominion: An Economic Commentary on Numbers*, 2nd ed. (Dallas, Georgia: Point Five Press, [1997] 2012), ch. 2:C

10. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2011), Part 3, *Tools of Dominion* (1990), ch. 58.

11. Robert Higgs, *Crisis and Leviathan: Critical Episodes in the Growth of American Government* (New York: Oxford University Press, 1987).

sociated with reaping the fruits of one's labor, did not threaten the cohesiveness of God's "leaner, meaner" holy army. The army's greater cohesion would have been the result of these exemptions. Holy warriors were supposed to be committed to victory. But some commitments could not be relegated to secondary status, either judicially or psychologically. These commitments became the legal basis of exemption from military duty.

The firstfruits offering was a priestly law. Priestly laws are no longer binding. The law of the new vineyard was a land law. Land laws are no longer binding. The care of a new wife was a seed law. Seed laws are no longer binding. The underlying principle of each was that a man is to enjoy a token payment on his productivity before his life is placed at risk militarily.

No civil sanctions are ever legitimate against men who refuse to serve in the military, for whatever reason. The state does not possess the right to draft anyone into military service, on threat of civil sanctions, in peacetime or war.

47

A FEW GOOD MEN

And the officers shall speak further unto the people, and they shall say, What man is there that is fearful and fainthearted? let him go and return unto his house, lest his brethren's heart faint as well as his heart.

DEUTERONOMY 20:8

Deuteronomy 20 deals with military affairs. The laws in this section governed God's holy army. These are holiness laws: aspects of point three of the biblical covenant.[1]

A. God's Holy Army

Moses announced this law to the generation of the conquest, but before this generation had marched into battle. He reminded them of the theocentric framework of their assignment. They were soldiers of a living God who is sovereign over history.

The section begins with a call to courage based on God's sovereignty: "When thou goest out to battle against thine enemies, and seest horses, and chariots, and a people more than thou, be not afraid of them: for the LORD thy God is with thee, which brought thee up out of the land of Egypt" (v. 1). This law was not a land law or a seed law. It was not grounded in the Mosaic sacrifices or the tribal system: a priestly law. It was therefore a cross-boundary law: universal.[2] This law governed God's holy army, but the general principle upholding it—the removal of fearful men from the ranks—is a universal principle of covenantal warfare.

1. Ray R. Sutton, *That You May Prosper: Dominion By Covenant*, 2nd ed. (Tyler, Texas: Institute for Christian Economics, [1987] 1992), ch. 3. Gary North, *Unconditional Surrender: God's Program for Victory*, 5th ed. (Powder Springs, Georgia: Point Five Press, [1980] 2010), ch. 3.

2. On the four categories of the Mosaic law, see Appendix J.

This holy army would fight under a dual chain of command: officers and priests. The priests were not merely spiritual cheerleaders whose main task was to supply extra courage to men marching into battle. That is, they were not modern military chaplains. They actually held a veto over the war. When the army approached the battlefield, a priest was to approach the assembled warriors and announce: "Hear, O Israel, ye approach this day unto battle against your enemies: let not your hearts faint, fear not, and do not tremble, neither be ye terrified because of them; For the LORD your God is he that goeth with you, to fight for you against your enemies, to save you" (vv. 3–4). A holy army was to be motivated by the words of a holy priesthood. If the priesthood failed to support this military action, refusing to encourage the army by invoking covenantally the name of God, the army could not lawfully obey any order to go into battle. This meant that the priesthood three times had a veto over the entire campaign: before the army marched off to war (Num. 10:8); when the mustered men were to pay their atonement money (Ex. 30:12), which the priests could refuse to accept; and again immediately prior to the engagement.

There has been a debate in the West for a millenium over what constitutes righteous warfare. There is no doubt biblically how to answer this in theory. A holy war is a war fought by a nation whose Christian ministers exercise a lawful veto on the war and who nonetheless have promoted it. If the state imprisons Christian ministers for speaking out against a war, as the United States government sometimes did during World War I,[3] then this war is not just.

B. Thinning the Ranks in Advance

The goal of this law was to thin the ranks of God's holy army. This is not the normal goal of any military planner. He always wants more men and equipment than he has.[4] But Israel was told to trust in God, not in military strength. David, a warrior, wrote: "Some trust in chariots, and some in horses: but we will remember the name of the LORD our God" (Ps. 20:7). Isaiah wrote: "Woe to them that go down to Egypt for help; and stay on horses, and trust in chariots, because they are many; and in horsemen, because they are very strong; but

3. H. C. Peterson and Gilbert C. Fite, *Opponents of War, 1917–1918* (Seattle: University of Washington Press, [1957] 1968), ch. 11: "Disciplining the Clergy."

4. This is the fundamental law of scarcity: "At zero price, there will be greater demand than supply."

they look not unto the Holy One of Israel, neither seek the LORD!" (Isa. 31:1). This outlook reflected Israel's theory of holy warfare. God told the nation that He would be with them in righteous military undertakings. Their faith would be tested by their willingness to thin the ranks by means of exemptions. The very smallness of the army was to increase the nation's faith in the coming victory. What would normally be regarded as a negative sanction was in fact a positive sanction.

This Israelite practice rested on a psychological premise: a fearful man is not much of a warrior. Also, an Israelite who did not trust God's promise to be with His people in holy warfare was surely not very holy. He would not see the army as uniquely protected by God and set apart for victory. No warrior wants to fight alongside of a fearful man. He wants to know that his flanks are covered in the line. A fearful man who holds back thereby exposes those on either side of him to added risk. Furthermore, a fearful man has not internalized the opening words of this passage: "When thou goest out to battle against thine enemies, and seest horses, and chariots, and a people more than thou, be not afraid of them: for the LORD thy God is with thee, which brought thee up out of the land of Egypt" (v. 1). His doubts call into question the army's corporate commitment to these words. God made provision for such a fear-burdened man to excuse himself and return home before the battle began.

There is always fear in battle: fear of the enemy, fear of senior officers, and fear of being labeled a coward. Different men respond differently to these fears. God told Israel not to fear the enemy. If a man feared the enemy, he was asked by an officer to go home.

The authority of the Israelite warrior to walk away from a war meant that the rulers had to be very careful in deciding what was worth fighting for. The priests held a veto on the decision of a civil ruler to take the nation into war. The individual warrior could not veto the war, but he could veto his participation in it. He could "vote with his feet." This placed a very serious limitation on political rulers. The rulers were to confine their military affairs to defensive wars and holy wars. The holy status of a war would be determined by the priesthood, not by the state. Any war begun by the ruler apart from the priests would not have the Ark of the Covenant present on the battlefield. The senior civil ruler could not demand that every holy warrior accompany him on his march into battle. Otherwise, it would be the leader's war, not the army of the Lord's war. He might per-

suade others to go into battle for the sake of spoils, but that would make his army a mercenary army. The motivation of mercenaries is personal gain. Mercenary armies are notoriously less successful than citizen armies defending their homelands. These restrictions on civil rulers meant that *Israel could not become an empire while obeying God's law*. Its rulers could not easily extend their military power beyond the original boundaries of the nation.

Just prior to the battle, there was to be a deliberate thinning of the ranks. The officers were to offer their men a way of escape. There were four ways out of the ranks: two were explicitly economic; one was marital; one was psychological. If a man had built a new home, planted a new vineyard, married a new wife, or was afraid, he could return home (Deut. 20:5–8).[5] The classic biblical case of deliberately thinning the ranks was Gideon's series of screening devices (Jud. 7:3–8). The first screening device was fear. This was the most effective device; 22,000 Israelites voluntarily departed (v. 3). They swallowed their shame and went home. They probably knew that to fight while afraid was contrary to the Mosaic law. Fearful men were not allowed to serve. Fear, not small numbers, threatened the success of the military venture. They chose not to violate His law. It was better to acknowledge their fear publicly and go home than to break God's law and fight in fear.

The commander of Israel's army was not to rely on numbers. The army had to be numbered prior to a war because each man owed blood money—an atonement payment—to the priests (Ex. 30:12).[6] This numbering was not to be used as a way for the commander to assess the likelihood of success in a military venture. Success on the battlefield, this passage informs us, was entirely dependent on God. This formal procedure of thinning the ranks was the way of affirming meaningful faith in God's presence with the nation in holy warfare.

C. Rational Calculation and Cowardice

This law made Israel's army different from any army in history. In all other armies, senior military commanders have had to devise ways to keep their troops in line.[7] They have used the negative sanctions of shame, fear of superior officers, harsh discipline, and ultimately

5. Chapter 46.

6. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 3, *Tools of Dominion* (1990), ch. 58.

7. Even the phrase "in line" suggests a military image: a line of troops that will not break and run under fire.

the threat of the firing squad or its equivalent to keep the ranks from breaking and running under fire. These sanctions are designed to offset the self-interested soldier's rational desire to run.

1. A Soldier Under Fire

Consider the decision-making process of a soldier under fire. He makes a cost-benefit analysis based on how his decision will affect him. The question here is the degree to which individual self-interest either supports or undermines a military formation. Here is a fundamental fact of infantry tactics: there is greater risk of being killed from behind while fleeing in open terrain than of being killed while standing and fighting, since the attacking troops are afraid of dying. Active resistance makes attackers less offensive-minded, less committed to destroying all those who resist them. Opponents who flee reduce the risk to their attackers, i.e., lower the cost of attacking. (This was especially true when infantry faced chariots.) With any scarce economic resource, the lower the cost, the more will be demanded. The lower the cost of attacking your enemy, the more you will be willing to do it, other things being equal. Nevertheless, defensive resistance is not the least dangerous personal decision. The least dangerous decision, apart from negative sanctions imposed by your own forces, is to run away early while your comrades are still fighting. They keep the enemy at bay; meanwhile, you distance yourself from danger.

Here are a soldier's options. *First*, if the line breaks and runs, he will be left standing nearly alone—a standing duck, so to speak. This is the most dangerous option. We can call this the Uriah option. "And it came to pass in the morning, that David wrote a letter to Joab, and sent it by the hand of Uriah. And he wrote in the letter, saying, Set ye Uriah in the forefront of the hottest battle, and retire ye from him, that he may be smitten, and die" (I Sam. 11:14–15). The more courageous the soldier, the more likely that he will die if his comrades flee. A brave man with cowards on his flanks will soon be a dead man. *Second*, if he runs early, he reduces his risk of dying during this encounter, whether or not his comrades run away later. The sooner he runs, the better for him: those who stay in the ranks longer before running are more likely to be cut down by the initial wave of charging troops. The attackers will be busy slaughtering those close at hand. Defense takes time; meanwhile, he keeps running. *Third*, he stands his ground until he sees his comrades running; then he tries to run faster than they do.

The least dangerous decision is to run early. The next-safe decision is to stand and fight, but only if all of your colleagues are standing and fighting. Your safety depends on the decisions of others in the line, just as theirs depends on you. Your survival therefore depends on your ability to time your flight so that you run away just slightly ahead of your colleagues. In a line that is about to break, your survival depends on your speed: deciding when to run and how fast you can run compared to your comrades. The next most dangerous decision is to run late and slow. The most dangerous decision is to stand and fight after your comrades have run. The cowardly early runner is least at risk. The brave man who stands his ground alone is most at risk. The others are in between. This is why it is so important to remove cowards from the line. Their decision to run jeopardizes everyone in the line.

The safety of the soldier depends on the willingness of his colleagues to stand and fight, or to march forward and fight, with him or without him. Some members of his unit predictably will die, whether it wins or loses. Immediate self-interest motivates each man to run away fast and early.[8] The more fearful his comrades, the sooner he had better start running.[9] The slower he runs, the earlier that he must begin running.

There is no question about it: *in an offensive war, where your nation is not being invaded, the safest thing to do is go home*. This is "running early," before the line forms. This is why the Mosaic law screened out those who were the most likely troops to run when attacked. Fear is like a forest fire. One way to contain forest fires before they begin is to cut down and remove highly inflammable trees that might catch fire and serve as conduits for the flames.

2. Cowardice

Cowardice is a military evil second only to treason—worse even than disobeying a lawful order. Cowardice threatens every military tactic. Senior commanders employ tactics that persuade most troops to stand and fight most of the time. Military training instills the fear

8. David Friedman, *Hidden Order: The Economics of Everyday Life* (New York: HarperBusiness, 1996), p. 7.

9. This is why *esprit de corps* is so important for an army. Men in arms must learn to trust their colleagues, and their colleagues must be worthy of this trust. The braver your comrades are, the safer you are. This is why an army must strive to eliminate the presence of cowards and to reduce the level of cowardice in all the other members. This is why armies award medals and activate firing squads.

of suffering shame by imposing negative sanctions based on shame: the first man to run is branded as an unjustifiable coward. Military formations have been designed to keep men from running.[10] If everyone runs, the collective guilt is spread around. So, initial flight must be stopped, and the means of stopping it is to threaten negative sanctions. The smaller the number of those who run, the greater is the individual responsibility and individual punishment on those who run. "They won't court martial us all if we run as a unit," thinks the soldier, "but they may court martial me if I run and the others hold the line."

The more fearful the individual is, the more likely he will run. The more fearful that he knows his comrades to be, the sooner he will run. The sight of a man running away can set off a chain reaction along the line. So, the most effective way to keep men from running is to increase their courage rather than threaten them with shame. That was why God required Israel's commanders to let fearful men go home early. They "ran" before the war began.

D. Israel's Motivation

Israel's army was to operate in terms of the expectation of the positive sanction of victory rather than the negative sanction of defeat. Negative formal sanctions to overcome fear were less necessary in Israel's holy army because those who were afraid were asked to leave before the war began. Tactically, this meant a smaller but a more determined army. A commander knew the operational size of his battlefield forces before he went into battle. His forces expected victory, so they were less willing to run. Those who walked into battle expected to walk home victorious. The familiar negative sanctions to reduce the likelihood of flight under fire were less necessary.

An opposing commander was probably unaware of this aspect of Israel's tactics. A frontal assault on the line normally reduces most units' will to resist. But Israel's front lines would be different. Any foreign commander launching an assault on Israel's holy army in the expectation that normal defensive fear would work to his advantage would receive a lesson in defensive resistance. Israel's troops would be far less likely to break and run. The offensive army would suffer higher casualties than normal.

By fielding a smaller army of more determined troops, God would gain the glory. This is why he told Gideon to thin the ranks (Jud. 7:2).

10. *Ibid.*, p. 8.

A smaller army was a better fighting force, man for man, than any rival army because of the Mosaic policy of allowing fearful men to go home before the battle began. The Israelite commander could better calculate the responses of his troops because the fear-ridden troops had gone home. This meant that the traditional problem for military tactics—how to keep non-rugged individualism from undermining the formation—was far less of a problem for Israel.

Conclusion

The text makes it clear that the goal of sending the fearful man home was to keep fear from spreading in the ranks: "Let him go and return unto his house, lest his brethren's heart faint as well as his heart" (v. 8). By removing the faint-hearted from the ranks before the battle began, the officers were able to minimize the spread of fear on the battlefield. They thereby increased the confidence of those under their authority. This increased the likelihood of victory . . . for a few good men and the God they represented. In a defensive war, it is far easier for the military to gain volunteers. Men know that their lives, their families, and their property are at stake. They are more likely to preserve their circumstances by joining the military than by fighting alone when the invaders arrive in force. In defensive wars, conscription is not necessary. In offensive wars, it is not legal.

48

LIMITS ON EMPIRE

When thou comest nigh unto a city to fight against it, then proclaim peace unto it. And it shall be, if it make thee answer of peace, and open unto thee, then it shall be, that all the people that is found therein shall be tributaries unto thee, and they shall serve thee. And if it will make no peace with thee, but will make war against thee, then thou shalt besiege it: And when the LORD *thy God hath delivered it into thine hands, thou shalt smite every male thereof with the edge of the sword: But the women, and the little ones, and the cattle, and all that is in the city, even all the spoil thereof, shalt thou take unto thyself; and thou shalt eat the spoil of thine enemies, which the* LORD *thy God hath given thee. Thus shalt thou do unto all the cities which are very far off from thee, which are not of the cities of these nations. But of the cities of these people, which the* LORD *thy God doth give thee for an inheritance, thou shalt save alive nothing that breatheth: But thou shalt utterly destroy them; namely, the Hittites, and the Amorites, the Canaanites, and the Perizzites, the Hivites, and the Jebusites; as the* LORD *thy God hath commanded thee: That they teach you not to do after all their abominations, which they have done unto their gods; so should ye sin against the* LORD *your God.*

DEUTERONOMY 20:10–18

The theocentric framework of these laws of military conquest is God's disinheritance of His enemies. This means God's dominion.

A. Disinheritance

This was a land law.[1] These rules of warfare no longer apply, because God's exclusive residence in one holy nation no longer applies. The temple is no more. Neither are captives to be brought back into the land as permanent slaves. The annulment of the jubilee land laws

1. On land laws, see Appendix J.

by the ministry of Jesus (Luke 4:17–21)[2] has annulled the permanent slaves law (Lev. 25:44–46).[3]

This passage is about disinheritance. First, the disinheritance of God's enemies could be by *military action*. It could involve their annihilation, as it was supposed to in Canaan, but that was a one-time event, as this passage also indicates. Those cities outside Canaan which made war against Israel would be dealt with differently from those cities inside Canaan which Israel made war against.

Second, disinheritance could be by *subordination*: a system of tribute, which can be monetary but can also be cultural. We see this in the modern West: a culture which once was confessionally Christian is now becoming increasingly pagan, yet it still sustains itself by drawing upon the ethical and cultural capital of Christianity. (The phrase "drawing down" might be more appropriate, as in drawing down a bank account.) The West pays covenantal tribute to God through its outward conformity to some of the laws of God. But as time goes on, it pays less and less tribute as it substitutes man's word for God's word. The problem it faces today is the same problem that faced a tributary in the ancient Near East: the vassal city that broke treaty with the regional monarch risked war, captivity, or annihilation. When the king's negative sanctions were finally imposed, they could be devastating.

Third, covenantal disinheritance could be by *regeneration*: bringing assets formerly devoted to other gods under the administration of a covenant-keeper. Ownership of the property does not change, but the legal status of the owner before God changes: from a disinherited son in Adam to an adopted son in Christ. *This is the primary means of disinheritance in the New Testament era*. It is the covenantal disinheritance of the old Adam and simultaneously the covenantal inheritance of the second Adam, Jesus Christ (I Cor. 15:45). It is the reclaiming of the world through the covenantal reclamation of the world's lawful owners. Whatever is under the legal authority of a regenerated individual is thereby brought under the hierarchical administration of Jesus Christ. This comprehensive reclamation project is what has been assigned to Christians by the Great Commission (Matt. 28:18–20).[4]

2. Gary North, *Treasure and Dominion: An Economic Commentary on Luke*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 6.

3. Gary North, *Boundaries and Dominion: An Economic Commentary on Leviticus*, 2nd ed. (Dallas, Georgia: Point Five Press, [1994] 2012), ch. 30.

4. Kenneth L. Gentry, Jr., *The Greatness of the Great Commission: The Christian Enterprise in a Fallen World* (Tyler, Texas: Institute for Christian Economics, 1990).

B. The Whole Burnt Offering and Disinheritance

The Israelites were told to show no mercy to the nations inside Canaan's boundaries (Deut. 7:16). These nations had practiced such great evil that they had become abominations in the sight of God. "For all that do these things are an abomination unto the LORD: and because of these abominations the LORD thy God doth drive them out from before thee" (Deut. 18:12). The language of Deuteronomy 20:10–18 indicates that every domesticated animal inside the boundaries of Canaan was to be killed: "thou shalt save alive nothing that breatheth." With respect to the first city to fall, Jericho, this law applied literally (Josh. 6:15–21). It did not apply literally to the other cities of Canaan. After the destruction of Jericho, the first city inside Canaan to be defeated, cattle became lawful spoils for the Israelites. "And thou shalt do to Ai and her king as thou didst unto Jericho and her king: only the spoil thereof, and the cattle thereof, shall ye take for a prey unto yourselves: lay thee an ambush for the city behind it" (Josh. 8:2). The word "breatheth" did not apply to Canaan's cattle; it applied to the human population. "And all the spoil of these cities, and the cattle, the children of Israel took for a prey unto themselves; but every man they smote with the edge of the sword, until they had destroyed them, neither left they any to breathe" (Josh. 11:14).

Jericho was the representative example of God's total wrath against covenant-breakers who follow their religious presuppositions to their ultimate conclusion: death.[5] Jericho came under God's total ban: *hormah*.[6] This was the equivalent of a whole burnt offering: almost all of it had to be consumed by fire. In the whole burnt offering, all of the beast was consumed on the altar (Lev. 1:9, 13) except for the skin, which went to the officiating priest (Lev. 7:8). Similarly, all of Jericho was burnt except for the precious metals, which went to the tabernacle as firstfruits (Josh. 6:24).[7] Nevertheless, because God wanted His

5. King Solomon observed: "But he that sinneth against me wrongeth his own soul: all they that hate me love death" (Prov. 8:36).

6. James B. Jordan, *Judges: God's War Against Humanism* (Tyler, Texas: Geneva Ministries, 1985), pp. 10–11.

7. Achan had secretly appropriated some precious goods in Jericho. For this, he and his family was executed. This was also the equivalent of a whole burnt offering. Everything under his jurisdiction was burned at God's command (Josh. 7:15). This included even the precious metals that would otherwise have gone to the tabernacle (v. 24). The men were killed by stoning; then their remains were burned (v. 25). This points to the execution as a whole burnt offering: the animal had to be slain before it was placed on the altar. The remains of Jericho were a whole burnt offering; Achan had covenanted with Jericho by preserving the remnants of Jericho's capital. On the execution of

people to reap the inheritance of the Canaanites, He allowed them to confiscate the cattle and precious goods of the other conquered Canaanite cities. This illustrated another important biblical principle of inheritance: "A good man leaveth an inheritance to his children's children: and the wealth of the sinner is laid up for the just" (Prov. 13:22).[8] Canaan's capital, except in Jericho, was part of Israel's lawful inheritance. The Canaanites had accumulated wealth; the Israelites were to inherit all of it. This comprehensive inheritance was to become a model of God's total victory at the end of history. Their failure to exterminate the Canaanites, placing some of them under tribute instead (Josh. 16:10; 17:13), eventually led to the apostasy of Israel and the Assyrian and Babylonian captivities, just as Moses prophesied in this passage (vv. 17–18; cf. 7:1–5; 12:30–31).

The annihilation of every living soul in Canaan was mandatory. "And thou shalt consume all the people which the LORD thy God shall deliver thee; thine eye shall have no pity upon them: neither shalt thou serve their gods; for that will be a snare unto thee" (Deut. 7:16). This was a model of God's final judgment. But it was a model in the same way that Jericho was a model: a one-time event. Jericho was to be totally destroyed, including the animals; this was not true of the other cities of Canaan. Similarly, the Canaanites were to be totally annihilated; this was not true of residents of cities outside Canaan. In this sense, Jericho was to Canaan what Canaan was to cities outside the land: a down payment ("earnest") on God's final judgment—final disinheritance—at the end of time. This earnest payment in history on the final disinheritance is matched by the earnest payment in history on the final inheritance. This is surely the case in spiritual affairs.[9] Debates over eschatology are debates over the extent to which these earnest payments in history are also cultural and civilizational, and whether they image the final judgment, i.e., to what extent history is an earnest on eternity.[10]

Achan, see North, *Boundaries and Dominion*, Appendix A: "Sacrilege and Sanctions."

8. Gary North, *Wisdom and Dominion: An Economic Commentary on Proverbs*, 2nd ed. (Dallas, Georgia: Point Five Press, [2007] 2012), ch. 41.

9. "That in the dispensation of the fulness of times he might gather together in one all things in Christ, both which are in heaven, and which are on earth; even in him: In whom also we have obtained an **inheritance**, being predestinated according to the purpose of him who worketh all things after the counsel of his own will: That we should be to the praise of his glory, who first trusted in Christ. In whom ye also trusted, after that ye heard the word of truth, the gospel of your salvation: in whom also after that ye believed, ye were sealed with that holy Spirit of promise, Which is the **earnest** of our inheritance until the redemption of the purchased possession, unto the praise of his glory" (Eph. 1:10–14).

10. Gary North, *Millennialism and Social Theory* (Tyler, Texas: Institute for Christian Economics, 1990).

C. Mosaic Law vs. Theocratic Empire

Those living outside the land were under different Mosaic rules of warfare. Their judgment in history would not have to be final. The Israelites had to offer a peace treaty to any foreign city prior to laying siege to it (v. 10). The theocentric principle here was that *God offers a peace treaty to all men who are not yet formally under His authority*. If men refuse to submit while this grace period is in force, they are doomed. This period of grace is history. "And as it is appointed unto men once to die, but after this the judgment" (Heb. 9:27).

Once Israel began its siege, history had run out for that city. It would no longer be able to extend the dominion of its gods. The gods of that city were placed under preliminary judgment by the siege. After the defeat, the gods of that city were buried. Some of the women and children would survive, but the city, its gods, and its culture would not. Once the siege began, God's handwriting was figuratively on the city's walls: it had been weighed in the balance and found wanting (Dan. 5:27). *If Israel won, the city died*. Once the siege began, it was not to be called off until the city was defeated. There might be temporary cease-fire agreements because of Israel's temporary weakness, but once the treaty of tribute was rejected by a city, that city was doomed, according to God's rules of warfare. Once the siege began, there could be no partial surrender, i.e., survival through paying tribute.[11]

1. Tributary Surrender

Conditional mercy was initially offered to all those inside the walls if they surrendered before the siege began. The men could avoid a

11. Biblically, God began His final siege of Satan's city of man at Calvary. The church now lays siege to the city of man in history, for the latter represents the gates of hell. "And I say also unto thee, That thou art Peter, and upon this rock I will build my church; and the gates of hell shall not prevail against it" (Matt. 16:18). The imagery of hell is that of a city under siege whose walls cannot indefinitely hold off the attackers. Because of the failure of the church constantly to maintain this siege, the city of man is occasionally offered temporary cease-fires. But once begun, Christianity's siege against the city of man can never be called off. If it is incompletely sustained because of the Christians' sin and weakness, it will later be strengthened. There is now no tributary peace treaty possible for the city of man, which refused to surrender while Christ walked the earth. The city of man will never be offered another opportunity to surrender and survive through paying tribute. Only one thing can bring relief: surrender through conversion, which is another way to destroy the city of man. The city's final annihilation takes place after the final judgment (Rev. 20:14–15). Sin retards the ability of the church to complete the operation in history. Nevertheless, the city of man will be visibly subdued in the final days, only to launch one final counter-attack (Rev. 20:7–9). Like Germany's Battle of the Bulge in late 1944, this counter-attack will fail.

death sentence by surrendering, but there was a condition: tribute (v. 11). This is analogous to the restitution penalty owed by a thief. A lying thief who confesses before the trial begins pays a 20% penalty to the victim (Lev. 6:5);[12] if he waits until after it begins, he pays double (Ex. 22:4).[13] Prior confession lowers the costs of civil justice; similarly, prior surrender lowers the cost of conflict on both sides of the city's walls, especially for the losing army.

This surrender by the men would bring all those under their authority under the same covenant of surrender. The tributary peace treaty would henceforth apply to all those inside the gates of the city. This treaty secured the survival of the foreign city's culture, for residents were not required to confess faith in God as a condition of the treaty. The Old Covenant principle of circumcision was that every male under the covenantal, household authority of an Israelite had to be circumcised (Gen. 17:12–13). Under the tributary treaty, foreign males did not have to be circumcised; this indicates that their defeat as a city-state did not place them under Abrahamic covenantal authority. They would merely pay tribute to Israel's civil government,[14] as historically defeated sons of Adam, but they would not pay a tithe to Israel's priests.

There is no evidence from Scripture that such foreign military campaigns were recommended by the prophets. They were legal when governed by Mosaic law, but they were not to become high-priority activities in the life of Israel. The most famous case of a tributary nation to Israel was Moab, which revolted against Israel after Ahab died. But Ahab had been more of a foreign king than an Israelite king, with his priests of rival gods. His son Jehoram was evil, although he destroyed his father's image of Baal (II Kings 3:2). When Moab revolted against him, Jehoram called the king of Judah to help him subdue Moab. When the king of Judah asked Elisha to bless the campaign, Elisha said it was only for Judah's sake that he would do so (v. 14). The campaign was initially successful, but when the king of Moab sacrificed his oldest son as a burnt offering on the wall of the city, this created indignation against Israel within the ranks of the alliance. The invading army broke up and went home (v. 27).

12. North, *Boundaries and Dominion*, ch. 7.

13. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 3, *Tools of Dominion*, ch. 45:E:2.

14. Solomon collected tribute as tax money (I Kings 4:6; 5:13–15).

2. Survival Through Circumcision

This raises a major question regarding the siege: Could the men of a besieged city escape the final sanction of death by affirming the covenant and becoming circumcised? If they could, this raises the question regarding the creation of a theocratic empire through military expansion. I argue that a foreign city, once placed under siege, could surrender covenantally and thereby escape annihilation. The Mosaic law does not say this explicitly, but it does not authorize the destruction of an Israelite city unless that city had begun to worship foreign gods (Deut. 13:12–15). How could Israel lawfully annihilate a city of circumcised men who had thereby publicly affirmed their covenantal allegiance to God? By mass circumcision, the city would have been incorporated into God's covenant. On what legal basis could the siege be continued? Thus, I see no alternative but to conclude that Israel could have increased its borders through military action, or at least through defensive military action: chasing an invading army all the way home and then laying siege to its cities. There was a way of escape for a besieged city: surrender to the God of Israel through circumcision. Tithes and offerings to God's temple would then be substituted for the original offer of peace: tribute to Israel's civil government. But the city would not be what it had been. The old city, like the old Adam, would have been destroyed. Covenantal absorption into Israel was another way of destroying a foreign city's gods and culture.

Yet God did not tell Israel to extend His covenantal reign by means of war across boundaries, once Canaan had been conquered. The possibility existed that some cities might surrender through conversion, but the Mosaic law did not encourage this. In fact, it discouraged this. Israel faced three major barriers to the creation of a theocratic empire. The first was judicial: a foreign city could stop the creation of such an empire merely by surrendering before the siege began. The second was cultural: if it failed to surrender on these terms, after its defeat it would no longer survive as a city. The women and children who survived the siege were then brought under the authority of Israel's households (v. 14). In both cases, the city avoided becoming part of a theocratic empire. The third barrier was economic: to engage in a siege, Israelites had accept the economic burden of the future victory: supporting large numbers of captive women and children. Furthermore, their wives would have to be willing to go along with this: new wives, new adopted children, new concubines, all of

whom would dilute the inheritance of their own children. Israel was polygamous; a foreign war bride, conspicuous for her beauty (Deut. 21:11), would not have been welcomed with open arms by the wife back home. Built into Israel's social system was an unofficial veto of foreign wars. Furthermore, the economies and social systems of the ancient Near East did not support widespread slavery.[15] Without Israel's permanent occupation of foreign cities, where the real estate could be used to fund the women and children taken captive, Israel could not afford to engage in foreign military conquests. The requirement that adult Israelite males attend all three annual feasts placed geographical limits on the extent of the conquest. The farther away a conquered city was from Jerusalem, the more expensive the trips to the annual feasts would be for its Israelite residents.

The issue of geography posed a major problem for the Mosaic law. The festival laws would have to be reworked if the theocratic kingdom expanded; otherwise, theocratic expansion would have been impossible. How could Jews residing in a distant city have attended the festivals every year? They couldn't. The larger the theocratic empire grew, the more impossible it would have been for all of the faithful to have walked to Jerusalem, let alone to have lodged there for a week. It seems likely that sometime after the Babylonian captivity, from which comparatively few Jews returned to Israel, the synagogue system replaced annual attendance at Passover. The Mosaic law's festival requirements no longer were enforced rigorously on faithful men as a condition of covenantal faithfulness. There was no longer a holy army in Israel; the nation was under the administration of foreign pluralistic empires.

I have argued in my commentary on Numbers that missionary activity always superseded the requirement that every Israelite male appear at Passover annually, let alone the other two annual feasts. Righteousness was more important than ritual precision in Mosaic Israel (I Chron. 30:18–20).[16] Consider Paul's absence from the feasts. He stayed in Corinth for a year and a half, teaching in the synagogue (Acts 18:8–11). The author of Acts records that "we sailed away from Philippi after the days of unleavened bread, and came unto them to Troas in five days; where we abode seven days" (Acts 20:6). They had not been in Jerusalem for the Passover. They did not make it back to

15. Isaac Mendelsohn, *Slavery In the Ancient Near East* (New York: Oxford University Press, 1949), p. 119.

16. Gary North, *Sanctions and Dominion: An Economic Commentary on Numbers*, 2nd ed. (Dallas, Georgia: Point Five Press, [1997] 2012), p. 122.

Jerusalem in time for the second Passover celebration for those who had been on journeys (Num. 9:11). Paul did try to get back to Jerusalem by Pentecost (Acts 20:16). Nevertheless, in front of the Jewish assembly, Paul announced: "Men and brethren, I have lived in all good conscience before God until this day" (Acts 23:1). No one called his assertion a lie on the basis of his failure to attend Passover.

3. Public Theology

Israel's theology was public as no other ancient religion's theology ever was. Foreign residents living inside Israel were invited to go to a central city every seventh year and hear the reading of the law (Deut. 31:10–12).[17] Foreigners would have been in contact with their home cities, especially if they were involved in trade inside Israel. There would have been widespread international dissemination of knowledge regarding Israel's legal order. Any foreign city that was unwise enough to goad Israel into an attack would have known in advance about Israel's rules of siege warfare. Foreign rulers would have known two things: (1) it was suicide not to surrender before a siege began; (2) it was very expensive for Israel to lay a siege, both for time lost and the costs of assimilating the captives.

This system of constrained warfare would have created incentives for foreign rulers to find ways other than military invasion to get what they wanted out of Israel's rulers. Israel would be unlikely to attack a foreign city without extreme provocation, such as an invasion of Israel's territory. This fact would have tended to place a protective barrier around Israel's borders in times of its military strength, yet at the same time, Israel's military strength would not have become a major threat to foreign nations. Israel was under restrictions—military, marital, economic, and geographical-ritual—that would keep it a defensive power only. This meant that Israel's military strength would have promoted foreign trade rather than foreign wars. Israel would have been too dangerous to invade militarily, yet too restricted by the Mosaic law to invade on its own initiative. Israel was the original incarnation of President Theodore Roosevelt's famous rule of American foreign policy: "Speak softly and carry a big stick."[18]

This meant that in times when Israel was mighty, these laws reduced the likelihood that Israel would engage in a systematic program

17. Chapter 75.

18. His aggressive foreign policy belied his words: America spoke loudly under his administration (1901–1909).

of territorial conquest. It was too difficult for Israel to retain captured territory. Israelites were required to keep separate from gentiles. Their food laws and other laws of ritual cleanliness forced this separation. Foreign cities were not places where Israelites who kept the Mosaic law would normally want to dwell. They might retain their separate identity as a captive people who were allowed to live under their own rules and leaders in ghettos, which most of them did from the Babylonian captivity until the nineteenth century, but they could not easily rule in foreign cities without breaking the Mosaic holiness laws, let alone the far more rigorous rabbinic holiness laws. Interaction with local gentiles was too restricted. So, their empire, if any, would have to be based on a system of tribute, not local law enforcement by resident Israelites. It would have been an empire of trade and taxes. Such far-flung empires are difficult to maintain without a strong military presence, or the threat of military reprisals, in the captive lands.[19] This kind of foreign military presence was made difficult by the festival laws. It took their captivity outside the land to restructure the laws of the festivals. It took life in a foreign ghetto and submission to the civil laws of other gods. This restructuring was not the product of an Israelite empire; it was the product of non-Israelite empires.

A city in the ancient Near East, with its local gods, could become an empire only through the pluralism of idols. Israel alone could survive as a nation apart from a homeland without succumbing to pluralism, for Israel's God claimed universality and exclusivity. Such a claim negated the possibility of a common pantheon (all gods) of idols. But Israel could not become an empire because of the Mosaic laws of ritual separation; it could at most survive as a ghetto subculture in foreign lands. Only in nineteenth-century Europe (and always in the United States) did Jews escape life in the ghetto, entering into a world of Protestant religious pluralism, two centuries after Protestantism had faded as a theocratic ideal. In this world, few men spoke authoritatively in civil affairs in the name of a supernatural god, and those few who did, such as Holland's Abraham Kuyper, asked only for equal access for confessional Christians to state subsidies and privileges, such as tuition-free, state-certified education.[20]

19. The British Empire was the greatest exception to this rule in the history of man. But if every British official had been forced to return to London every year to attend the equivalent of Passover, it is highly unlikely that the British Empire would have survived long.

20. Frank Vanden Berg, *Abraham Kuyper: A Biography* (St. Catherines, Ontario: Paideia, [1960] 1978), ch. 20.

The gods of modernism have reigned nearly supreme in this culture, and Judaism went liberal and humanistic with unprecedented speed. By the mid-twentieth century, Reform Judaism could accurately be described as "Unitarianism, but with better business connections."

D. Women and Children

The siege law required that women and children be spared after the fall of the foreign city. All of the men were to be killed. There could be no mercy for male heads of household. Their execution would have automatically placed the surviving women and children under the Mosaic covenant. There was no way for widows and orphans to build a society. The children needed protection. Their mothers were in no position to provide this.[21] The law did not allow defenseless survivors to be left behind by the Israelite army, to fend for themselves or die.

The text says that all the males were to be slain. Did this mean only the adults? Or were male children slain, too? Consider Israel's defeat of the Midianites, which took place outside Canaan. "And Moses said unto them, Have ye saved all the women alive? Behold, these caused the children of Israel, through the counsel of Balaam, to commit trespass against the LORD in the matter of Peor, and there was a plague among the congregation of the LORD. Now therefore kill every male among the little ones, and kill every woman that hath known man by lying with him. But all the women children, that have not known a man by lying with him, keep alive for yourselves" (Num. 31:15–18). The text here does not say. My assumption is that the text would require this if God demanded it.

The outcome of the siege had disinherited that society. Without any surviving male leadership, there could be no transfer of covenantal civil authority to the next generation. The war had destroyed generational continuity. Thus, all of the captives had to be integrated into Israel. This meant either adoption, including marriage, or enslavement on a massive scale. Deuteronomy 21:10–14 sets forth the laws of marital adoption for foreign military widows. Those who became permanent slaves (Lev. 25:44–46) and those who became wives were brought under the household authority of their new husbands. In lieu of being circumcised, the prospective wives first had to shave their heads (Deut. 21:12). This was a sign of their *enforced transfer of authority* from their old households to new ones. It marked

21. This is why widows, orphans, and strangers were the three groups repeatedly identified in the Mosaic law as deserving of legal protection and special consideration.

a covenantal transformation. This transformation was not necessarily confessional; it was geographical and institutional. The woman was removed from her surroundings and taken back to Israel (v. 12), where she was to mourn her father (dead) and mother (dead or taken captive)—but not her late husband—for a month (v. 13). Her former gods had perished in the total defeat of her city and the death of her husband and father. These gods had no jurisdiction apart from the city that had been built in their name.

By carrying women and children back to Israel, the warriors either enslaved or adopted the survivors. In both instances, the survivors came under the jurisdiction of an Israelite household. The survivors would henceforth live under a hierarchy that confessed the God of Moses. There was no religious pluralism allowed in any Israelite household (Deut. 13:6–11). *Thus, warfare was a form of evangelism through household subordination*. The victorious warriors had no choice in this matter. They were not allowed to kill defenseless women and children. To leave them behind to starve in a city without husbands would have been a form of impersonal execution. Such a deserted city would have become a target for invasion, rape, and enslavement to other cities' gods. This was not allowed. If women and children were to be enslaved, the God of the Bible would be the master of their new households. *Counting the costs of warfare meant counting the costs of victory*.

E. Immigration and Assimilation

The gods of the fallen city had been definitively disinherited, but traces of their cultural influence would survive in the captives' outlook and practices. War brides and older children would bring memories and habits formed under the covenantal administration of idols. Many aspects of this covenantal legacy would have to be modified or completely overcome. This would not be an overnight transformation.

The primary means of breaking these habits was language. Immigrants had to learn a new tongue. Cultures are maintained and developed through language. The final death of a culture occurs only when no one is left who speaks its language and confesses its doctrines. *The immigrant must think in new patterns and categories*. He must learn a new grammar and vocabulary. A subtle transformation of a person's thought takes place through language. An immigrant speaks with an accent; young children raised in a new society do not. The mark of assimilation is their lack of an accent. Accents are more than

inflections of the tongue; they are ways of thinking and acting. The goal was to remove every trace of foreign accents in the cultural-confessional sense. In this sense, *assimilation meant conversion*.

Discipline was the second major area or transformation. This would have manifested itself most continually in work. The immigrant's daily schedules would have changed, although in an agricultural economy with a low division of labor, most of life's basic tasks would have been familiar across national borders. There would be different ways of getting things done, but the same sorts of things would have to get done as had to get done in the old country. *By working differently, people adapt to new environments*. The cause-and-effect pattern of work—planting and reaping—is a major form of discipline, to which are added the institutional carrot and stick.

The third area of transformation was dietary. The newcomers would be forced to change the eating habits of a lifetime. This is a discontinuity so great that few people can ever achieve it voluntarily, as evidenced by myriads of diet plans that produce only handfuls of permanently thin people in the West. The newcomers' diets would remind them daily that they were in a new land and living a new way of life. The clean-unclean distinctions in Israel would have forced the newcomers to regard some of their familiar delicacies as abominations—abominations that testified to theological and moral abominations in the world they had left behind. Their former way of life could not be manifested at mealtime. Most of their former foods would have been present in Israel, but not the meat-based specialties. The taste of food is governed by preparation. *Men express their cultures through taste*. Things would never taste the same again. Like the sense of smell, we cannot remember what things taste like until we actually place them in our mouths. New tastes, especially for children, would daily block out old memories.

Celebration and liturgy were also important. Play and formal worship are not full-time endeavors. They are scheduled for certain special times. They mark a society.[22] But in an agricultural society, the law and its sanctions are more readily assimilated through work than through play or liturgy.

The subtle nuances of a culture reflect an identifiable outlook. Work, eating, celebration, and formal worship are the primary ac-

22. Modern Western society is so heavily entertainment-oriented and so minimally liturgical that entertainment has virtually replaced liturgy in the lives of millions of people. Not without cause is the television set referred to as the one-eyed god.

tivities of life, especially in an economy with a low division of labor. The newcomers would have to learn a new language, learn to enjoy new foods, learn new songs, and learn new confessions and laws. Language and work—word and deed—would have encompassed most of the daily life of the immigrant. It was here that the assimilation process would have been most comprehensive and rapid.

F. Evangelism After the Captivity

The development of a theocratic empire was virtually impossible for Israel under the Mosaic law. The annual festivals would have limited the geographical scope of the empire. *The festivals made impossible the full-time occupation of distant foreign cities*. Only after the return from Babylon, when Israel no longer was an armed holy army, could dispersion of the Israelite population take place. Evangelism by word and deed was to replace evangelism by post-war enslavement.

The fact that attendance at the annual festivals was no longer enforced by excommunication after the return from Babylon is *prima facie* evidence that the required festivals had something to do with Israel as a holy army. Annual attendance was no longer enforced because it was no longer required. This indicates that *the mandatory nature of the festivals was God's deliberate restraint on the creation of an empire*. When that threat disappeared in history, so did the requirement of attendance at each of the festivals. Israel could then evangelize by word and deed. Evangelism was clearly more important than the original Mosaic requirement of annual attendance. *Until Israel sheathed its sword, it could not evangelize the world*. This judicial alteration has been formalized by the New Covenant: "And, behold, one of them which were with Jesus stretched out his hand, and drew his sword, and struck a servant of the high priest's, and smote off his ear. Then said Jesus unto him, Put up again thy sword into his place: for all they that take the sword shall perish with the sword" (Matt. 26:51–52).

The laws mandating the annual festivals were suspended during the Babylonian captivity and then permanently modified after the partial return of the remnant of Israel to the land. We do not know what the new laws of the festivals were, but we know that the rigorous Mosaic festival laws were no longer enforced. This lack of enforcement made possible evangelism through the Jews' resettlement. *The religious pluralism of the pagan empires made possible Israel's evangelization of gentiles*, for it opened the gates of every city to citizens of every other city. To take advantage of this opportunity, God silently ac-

cepted the priesthood's revocation of mandatory attendance at each annual feast. He did not bring negative sanctions against either the priests or the nation for non-attendance at some festivals.

After the return from Babylon, Israel's evangelism—proselytizing—involved the establishment of local synagogues throughout the cities of the successive empires. There was no longer any holy army in Israel; therefore, its troops would no longer march to Jerusalem three times a year. With no army, there was no way for Jews to besiege a city. Therefore, the laws of the siege treaty were silently annulled. Instead, Jews invaded foreign cities through trade, relocation, and synagogue-building. They penetrated enemy strongholds by means of the new pluralism of the empires: Babylonian, Medo-Persian, Hellenistic, and Roman. *Cities would henceforth be penetrated by walking through open gates*. The saving message of the God of Abraham could be preached openly. With economic footholds inside foreign cities, there was no longer any need to threaten annihilation of a foreign city's army should the city not surrender in advance of the siege by agreeing to pay tribute. Israel no longer had either the military power or the ecclesiastical need to issue such a threat. Evangelism by trade, preaching, and synagogue-building replaced evangelism by siege, enslavement, and war-bride adoption. The New Testament church inherited these post-Babylonian techniques of evangelism. The Mosaic laws authorizing the siege treaty had long since been annulled by the Babylonian captivity and its aftermath. The old laws were not formally annulled. But accepted practices in Jesus' day indicate the extent of the changes.[23]

Conclusion

A foreign war was to be a rare occurrence in the life of Mosaic Israel. The costs of such warfare, which included the costs of victory, were high. The benefits, apart from tribute, were low. Warfare could be Israel's means of evangelizing the survivors of a siege, but this would not have included males. It was only partial evangelism. The foreign war was a form of inheritance/disinheritance. The city itself would have to be destroyed unless left intact for other nations to inherit, since the festival laws made occupation by Israel unlikely. The wives and children of the disinherited city would become part of the inheritance of Israel. But this living inheritance had to be capitalized

23. A major one: the absence of family members at the Last Supper.

to make it productive: by providing training, food, shelter, and even adoption through marriage. There were high costs for warrior families in the assimilation process. Slavery was not a widespread institution in the ancient Near East, unlike classical Greece and Rome.

The creation of pluralistic pagan empires made possible the peaceful extension of God's kingdom in history. Their pluralism gave equal access to all submissive religions. In these covenantal conflicts among competing religions, biblical religion triumphed. The cacophony of competing religious and philosophical claims, coupled with the breakdown of classical ethics and philosophy, eventually undermined the moral confession of the Roman empire, and in so doing, undermined the civil authority of Rome.[24] Christian civilization, with its non-pluralistic confession, replaced Rome's pluralism[25] in the West. This new civilization came into existence in the fourth century and lasted for over a thousand years until the Renaissance's revival of classical religion's occultism[26] and its art and literature,[27] followed by the Enlightenment's revival of religious pluralism.

This revival of paganism's religious pluralism represents a revival of the civil religion of the Near Eastern and European empires: "all nations under god"—the god of the centralized bureaucratic state. Its promised new world order challenges Christ's new world order. It cannot succeed: "And in the days of these kings shall the God of heaven set up a kingdom, which shall never be destroyed: and the kingdom shall not be left to other people, but it shall break in pieces and consume all these kingdoms, and it shall stand for ever. Forasmuch as thou sawest that the stone was cut out of the mountain without hands, and that it brake in pieces the iron, the brass, the clay, the silver, and the gold; the great God hath made known to the king what shall come to pass hereafter: and the dream is certain, and the interpretation thereof sure" (Dan. 2:44–45).

If a besieged city visibly converted to God through circumcision, would its inhabitants then have been required to march to the festivals? Only if its adult males became citizens of Israel, meaning that

24. Charles Norris Cochrane, *Christianity and Classical Culture: A Study of Thought and Action from Augustus to Augustine* (New York: Oxford University Press, [1944] 1957).

25. Appendix C.

26. Frances Yates, *Giordano Bruno and the Hermetic Tradition* (Chicago: University of Chicago Press, 1964); Stephen McKnight, *Sacralizing the Secular: The Renaissance Origins of Modernity* (Baton Rouge, Louisiana: LSU Press, 1989).

27. Jacob Burckhardt, *The Civilization of the Renaissance in Italy* (New York: Penguin, [1860] 1990), Part 3.

they became eligible to join Israel's holy army. They could not become eligible to serve as judges if they did not make these annual marches. If proselytes who lived outside the land were not part of Israel's holy army, then they were not required to attend the annual feasts. This was the case of Jews living outside the land during and after the captivity. This meant that Israel could not create an empire through military action. Cities outside the land that converted to faith in the God of Abraham did not thereby become a part of Israel's army or of Israel's civil structure. They could not subsequently march against other cities and thereby pull national Israel into a conflict far from its original borders. These proselyte cities would pay their tithes to the Levites, but they could not legally extend Israel's authority beyond the boundaries of the land which God had promised Abraham. They could extend God's authority, but not national Israel's. The distance from the official festival city made empire impossible.

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FRUIT TREES AS COVENANTAL TESTIMONIES

> *When thou shalt besiege a city a long time, in making war against it to take it, thou shalt not destroy the trees thereof by forcing an axe against them: for thou mayest eat of them, and thou shalt not cut them down (for the tree of the field is man's life) to employ them in the siege: Only the trees which thou knowest that they be not trees for meat, thou shalt destroy and cut them down; and thou shalt build bulwarks against the city that maketh war with thee, until it be subdued.*
>
> DEUTERONOMY 20:19–20

This was a law governing holy warfare. The theocentric issue here is related to the forbidden tree in the garden: boundaries. Boundaries are an aspect of point three of the biblical covenant.[1]

A. Trees and the Dominion Covenant

This law applied to the people of Israel when they were operating as an army outside the boundaries of the Promised Land. This creates a problem of interpretation. Was this law bounded by the Mosaic covenant? Yes. Does it still apply today? Not strategically. This makes it a land law.[2] Armies today are not required by God to maintain a siege until the enemy surrenders. Under the Mosaic covenant, they were. "And if it will make no peace with thee, but will make war against thee, then thou shalt besiege it: And when the LORD thy God hath delivered it into thine hands, thou shalt smite every male thereof with the edge of the sword" (Deut. 20:12–13).[3] Also, this law no longer applies tactically. Enemy nations no longer can hide inside walled

1. Gary North, *Boundaries and Dominion: An Economic Commentary on Leviticus*, 2nd ed. (Dallas, Georgia: Point Five Press, [1994] 2012).
2. On land laws, see Appendix J.
3. Chapter 48.

cities. There are no more walled cities. Gunpowder removed them centuries ago.

But there is one aspect of this law that does still hold: the role of fruit-bearing trees in the dominion covenant.

There is a hierarchy in the dominion covenant: God > man > nature. In this hierarchy, man serves God, while nature serves man. God is not dependent on either man or nature. Man is dependent on both God and nature. Man reflects God as a unique creature who is made in God's image. He rules over nature because he is different from nature: made in God's image. But he is also a creature. He is part of an interdependent creation. He is required by God to acknowledge his two-way dependence and his two-way responsibility: upward and downward.

This law of warfare reminded man that fruit-bearing trees sustain man's life. For this reason, they must not be used to impose man's death. Man relies on fruit-bearing trees to sustain his life and make his life more pleasant; they, in turn, are heavily dependent on man for their cultivation. They can exist apart from man in some environments, but man's care makes them flourish. There is mutual interdependence between man and fruit-bearing trees.

This law makes it clear that holy warfare is not just a means of inflicting death and destruction. It is a means of extending life. *Holy warfare is not destruction for destruction's sake. It is destruction for God's sake*. There is an element of disinheritance in war, but it is always to be offset by an element of inheritance.

B. Laying Siege

Once begun, the siege of a foreign city was supposed to be completed. "Only the trees which thou knowest that they be not trees for meat, thou shalt destroy and cut them down; and thou shalt build bulwarks against the city that maketh war with thee, until it be subdued" (v. 20). When a city refused to covenant with God by surrendering to Israel's holy army, it was doomed unless it covenanted with God by surrendering to Israel's holy priesthood. Unless the men surrendered to God through mass circumcision, all of them would be executed after their defense ended (Deut. 20:13).[4] Once they had been placed under the formal negative sanctions of God, the men of a besieged city were not to be allowed to escape this judgment apart from their complete covenantal surrender. Partial surrender was no longer an option.

4. Chapter 48:C:2.

This meant that the Israelite army had no choice: it had to maintain the siege until the city fell. This placed a great deal of pressure on the army's commander to find techniques to break through the city's defenses. He might be tempted to cut down all of the trees in the region to use as siege implements. They could be used as siege implements in five ways: as battering rams, as siege towers, as scraping implements to undermine the walls from tunnels dug beneath the walls, as tunnel supports, and to build ladders to scale the walls. Military historian Horst de la Croix wrote that "the basic siege methods—battering, sapping, mining, scaling—. . . will remain the same throughout the ages."[5] Trees could be used as firewood. The longer that the siege went on, the more depleted the countryside would become. Fruit-bearing trees would become more valuable.

The language of the text is clear: the reason why the fruit-bearing trees were protected was that man's life is maintained by these trees. These trees would provide food for Israel's troops. This pointed to the possibility that the siege might last for several seasons. The commander was to acknowledge that he and his men might be there a long time. They were allowed to eat from these trees. A commander who was conducting a winter campaign knew that his army might still be there in spring and summer. *Israel's army was to acknowledge that the extension of God's kingdom sometimes takes longer than covenant-keepers would prefer*. The siege might take years. The fruit trees would provide a blessing in the time of the harvest. It would be short-sighted to cut them down. It would contribute to a short-run mentality: "If we can't starve these people out in one season or less, it will be time to go home." God was telling the army that they had to stay there and wait until that city surrendered.

The fruit trees would sometimes have been be visible from the walls of the city. The defenders watching on the walls could report back to their officers that the Israelites still had not cut down the fruit trees. This information would have undermined confidence in the leaders of the city. The Israelites were not intending to go home soon. They were prepared to sit and wait for as long as it took to defeat the city. This meant that the Israelites were determined to win. They were willing to invest whatever amount of time it would take to starve out the city. Meanwhile, they would feast on the fruit of the field.

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5. Horst de la Croix, *Military Considerations in City Planning: Fortifications* (New York: George Braziller, 1972), p. 18.

C. The Imagery of the Siege

The trees were outside the boundaries of the city's wall. This wall kept the residents of the city from feasting on the trees that provided life. In relation to the trees, the city's wall was a defensive boundary for the Israelite army. Israel used swords to keep the defiant residents of the city away from the fruit trees that had once sustained them and delighted them. Because the city had not surrendered to Israel when the peace treaty was offered, the men of that city would never again taste the fruit of those trees. The symbolism is obvious: this was analogous to the fiery sword that kept men away from the tree of life in the garden.

The tree of life will again grow in the midst of a garden: the city-garden of the new heaven and new earth. "In the midst of the street of it, and on either side of the river, was there the tree of life, which bare twelve manner of fruits, and yielded her fruit every month: and the leaves of the tree were for the healing of the nations" (Rev. 22:3). The barrier between covenant-keepers and covenant-breakers will become absolute. "And beside all this, between us and you there is a great gulf fixed: so that they which would pass from hence to you cannot; neither can they pass to us, that would come from thence" (Luke 16:26). The question facing covenant-breaking man is this: Can he somehow cross the barrier to gain access to the tree of life? That was the question facing the men of the besieged city. The answer was *yes*, but only through covenantal conformity to God through circumcision. They could bring the city under God's protection. They could become Israelites: adopted sons. There was no other way that they would ever again feast on the fruit of the trees that lay outside the walls if Israel obeyed God's laws of warfare.

The imagery here was not of a circumscribed garden separated from the world by a wall. On the contrary, the imagery was a walled enclosure in which death was sure, surrounded by a world in which fruit was sweet. The kingdom of God lay outside the walls of the city; it was defended by the army of God. The kingdom of covenant-breaking man was surrounded. It was under siege. It was strictly defensive. Life lay beyond the walls of the city. The men enclosed by those walls could not gain access to life. The walls that temporarily sustained them from death by the sword also kept them away from the trees of life. Their enemies would feast on the fruit while they, determined not to surrender on terms acceptable to God, would not again taste such fruit. Their enemies would inherit.

D. Hope in the Future

Trees that were visible from the walls testified to those inside the walls that there was hope available, but not on their covenantal terms. There was one way of surrender. The men could circumcise themselves and their sons. They would then throw open the gates of the city to the holy army. They would plead immunity through self-inflicted covenantal wounds. There was risk, of course. The Shechemites had done this, and they had been slaughtered by two sons of Israel (Gen. 34:25). But this had been a great evil for which Jacob was greatly upset. "And Jacob said to Simeon and Levi, Ye have troubled me to make me to stink among the inhabitants of the land, among the Canaanites and the Perizzites: and I being few in number, they shall gather themselves together against me, and slay me; and I shall be destroyed, I and my house" (v. 30).

Could those people inside the boundary provided by the wall trust the Israelites not to take advantage of them? Would Israel obey God's law? There was a visible test of Israel's commitment to God's law: fruit trees. *If the fruit trees were still standing, then Israel was still honoring God's law*. This meant two things: (1) the army of God was dug in for the long haul; (2) there was still hope for the city. Mass circumcision could still gain mercy from the invaders. But the men of the city would have to undergo pain. They would also have to surrender: open gates. They could no longer safely put their trust in walls and gates.

On the other hand, if the fruit trees had been cut down, there was hope of survival in terms of the city's old covenant. This Israelite army was visibly a short-term army. It had not honored God's law. It was willing to consume the trees that would feed it in due season. Here was a reason for those inside the walls to continue their resistance. Why surrender to an army that was there only for the short haul? Resistance offered hope. Surrendering to such an army would be foolish. Such an army was ruthless with life-giving trees; it would probably be ruthless with defenders. Every man inside the city would die. Better to resist to the last man. Better to threaten unacceptable losses for an army that was not there for the long haul, one that was not committed to victory in terms of God's law.

Which would it be: surrender to God or continued resistance? Which was the wiser course of action? Circumcision might bring permanent peace or it might bring a slaughter. Resistance might bring a military slaughter or it might bring terms of surrender for tribute's sake, the way that some of the Canaanites survived Israel's program of

genocide (Josh. 16:10; 17:13). Fruit-bearing trees provided evidence. If they were still standing, this army was serious about God's law. If they had been cut down, this army was not serious about obeying God. It would then be too risky to surrender by mass circumcision. It might be safer to resist longer, hoping for terms of peace based on tribute.

E. Inheritance and Foreign Policy

By allowing the fruit-bearing trees to survive, the army was maintaining the value of the land. For land located close to Israel's borders, this decision would have capitalized Israel's inheritance. It left intact an agricultural inheritance. But for land located far from Israel, the income stream provided by the trees could not be capitalized by Israel. The trees were too far from Jerusalem. The journey to the festivals would be too long. The army dared not annex the city.

The adult male residents of the besieged city had to be executed, apart from conversion through circumcision. The women and children had to be brought back to Israel. Who would then take care of the trees? After all, the trees were wealth. If left undefended, such wealth would serve as a beacon: "Come and get it!" A neighboring nation would not leave such wealth to rot. It would invade the empty region. The trees would provide capital for the invaders. This meant that another nation with other gods would inherit what Israel had temporarily conquered. This would bring the invading nation closer to Israel's borders. Therefore, *a major foreign policy consideration in deciding whether to place a city under siege was who its neighbors were*. If the city bordered a strong nation that could pose a threat to Israel, it would be unwise for Israel to lay siege to it. Why waste Israel's resources in a military operation that might expose the nation to greater danger later on? A short-term military success might be followed by a long-term military disaster. Why strengthen your enemies? Solution: call off the siege before beginning it.

Such a foreign policy would have reduced the risks to short-term raiders who could raid the fringes of Israel's borders without the threat of a siege of their cities, but it would also have reduced the likelihood of full-scale invasion. Weaker cities would have bordered Israel. They might constitute an annoyance to those tribes whose land was on the borders, but these invaders would not have constituted a major threat to the nation.

The preservation of the besieged city's fruit-bearing trees forced foreign policy considerations on Israel. It forced Israel's leaders to

count the long-term costs of war. The farther away the city, the less economic incentive there was to conquer it. The more powerful the city's neighbors, the less economic incentive for Israel to lay siege to it. Only if the city submitted to God through circumcision would beginning a siege make sense, and then only in retrospect. This was a high-risk military decision: once the siege began, the decision-making authority to determine who would inherit the fruit trees would move from Israel to the besieged city. Even if Israel won, knocked down the walls, and burned the city, those trees would still be standing: a standing testimony to the fruitfulness of a now-empty land. The land would not stay empty for long.

F. Ecology and Inheritance

This law had ecological implications. The presence of fruit-bearing trees had implications for birds and other fruit-eating beasts of the field. The ecology of the land was to be honored by the invading Israelite army; they were not to become destroyers.

As far as the adult male residents of the besieged city were concerned, the ecological care shown by the Israelites constituted a guaranteed death sentence on the city. The Israelites' care for God's land meant annihilation for the men of the city. The Israelites were caring for God's land, which meant that they would obey God's law. God's law told them not to pull back from the siege: "Thou shalt build bulwarks against the city that maketh war with thee, until it be subdued" (v. 20b). By extending life to the fruit-bearing trees, Israel's army was extending a death sentence on the city's adult males.

The general ecological principle announced by this text, namely, that "the tree of the field is man's life," becomes narrowly applied in the context of a siege. The tree of the field is not covenant-breaking man's life. Covenant-breaking man is now locked inside the walls of his city. He may be able to see life from the walls of the city, but he cannot gain access to it. The trees of the field would become life for the covenant-keeping army that was laying siege. The trees would sustain life for the city's executioners. The life-sustaining properties of the fruit would increase the likelihood of the death of the trees' former owners. That which had sustained life would now indirectly threaten life. This was a matter of inheritance. *The Israelite army had inherited the means of life*. The forthcoming disinheritance of the men inside the city's walls would now be made even more likely.

A preservationist ecology in the context of God's covenant law-

suit against evil offers life to covenant-keepers and death to covenant-breakers. The benefits of a preservationist ecology must therefore be discussed within the covenantal framework of history. This raises the issue of eschatology. If history brings progressive defeat to covenant-keepers and victory to covenant-breakers, then a preservationist ecology leaves God's enemies as the inheritors. By sustaining the productivity of the earth, the covenant-keeper provides an inheritance to future generations. But if these future generations maintain the ethics of the pre-Flood world or pre-conquest Canaan, then God, through ecological preservation and capitalization by covenant-keepers, will someday offer to His enemies "houses full of all good things, which thou filledst not, and wells digged, which thou diggedst not, vineyards and olive trees, which thou plantedst not; when thou shalt have eaten and be full" (Deut. 6:11). The displacement of covenant-keepers can happen, of course, but only as God's covenantal curse on His people: "Thou shalt plant vineyards, and dress them, but shalt neither drink of the wine, nor gather the grapes; for the worms shall eat them" (Deut. 28:39). But is such a curse permanent in history? Does it characterize covenantal inheritance and disinheritance in history? No.

> And it shall come to pass, when all these things are come upon thee, the blessing and the curse, which I have set before thee, and thou shalt call them to mind among all the nations, whither the LORD thy God hath driven thee, And shalt return unto the LORD thy God, and shalt obey his voice according to all that I command thee this day, thou and thy children, with all thine heart, and with all thy soul; That then the LORD thy God will turn thy captivity, and have compassion upon thee, and will return and gather thee from all the nations, whither the LORD thy God hath scattered thee. If any of thine be driven out unto the outmost parts of heaven, from thence will the LORD thy God gather thee, and from thence will he fetch thee: And the LORD thy God will bring thee into the land which thy fathers possessed, and thou shalt possess it; and **he will do thee good, and multiply thee above thy fathers**. And the LORD thy God will circumcise thine heart, and the heart of thy seed, to love the LORD thy God with all thine heart, and with all thy soul, that thou mayest live. **And the LORD thy God will put all these curses upon thine enemies**, and on them that hate thee, which persecuted thee. And **thou shalt return and obey the voice of the LORD**, and do all his commandments which I command thee this day. **And the LORD thy God will make thee plenteous in every work of thine hand**, in the fruit of thy body, and in the fruit of thy cattle, and in the fruit of thy land, for good: for the LORD will again rejoice over thee for good, as he rejoiced over thy fathers: If thou shalt hearken unto the voice of the LORD thy God, to keep his commandments and his statutes which are written in

this book of the law, and if thou turn unto the LORD thy God with all thine heart, and with all thy soul (Deut. 30:1–10).[6]

G. New Testament Applications

Unlike all other Mosaic laws, this law was applicable *only* outside the boundaries of the land. Inside, there could be no mercy shown. This law was not a cross-boundary law;[7] it was a law governing Israel's relations with gentiles in their land. The general principle of this law holds true in every era: "The tree of the field is man's life." Because the general principle is true, this law continues to be in force. What is no longer in force, however, is siege warfare. New technologies have replaced it. Men no longer lay siege to walled cities. The West's importation of Chinese gunpowder ended that ancient military strategy in the fifteenth century: artillery ended the military benefits of city walls. Walled communities have become popular inside crime-ridden cities, but no organized enemy lays continuous siege to them. Also, military units may build defensive barriers, but these units are not cities.

This law is not a law governing the use of explosives. Fruit trees may be destroyed by an artillery barrage or a bombing raid, but this is not the same as using the trees as weapons of war. Also, this is not a law against using chemical defoliants that open up terrain so that enemies cannot hide. The context of the Mosaic law of the siege was an immobile city facing a dug-in army.

In the medieval era, this law would have applied to a siege. There were walled cities and castles. Armies did come and lay siege to them. They did cut down trees to use as weapons of war. These invading armies should have honored the Mosaic law of the fruit trees.

Conclusion

The invading Israelite army was to honor God's law of ecology. This was not for the benefit of the covenant-breakers who were trapped inside their own defensive walls, nor was it for their heirs, who would be carried back to Israel. This was for the benefit of the army itself during the siege and also for those foreign invaders who would occupy the land after the Israelites returned home. These inheritors would be one of three groups, if the Israelite army obeyed God's law:

6. If taken literally, this implies that the Islam's conquest of North Africa in the seventh century will not be maintained indefinitely. I take it literally.

7. On cross-boundary laws, see Appendix J.

(1) the Israelites themselves, but only if the city was close to Israel's border; (2) the city's existing inhabitants, but only if they submitted to circumcision, becoming Israelites through adoption; (3) the invading army that would march into the unoccupied land after Israel's army had departed. Which outcome was best for Israel? The covenantal surrender of the city was best. The residents would henceforth pay a tithe to the Levites. Better that men worship God than that they die in their sins. Better that they surrender unconditionally to God while His siege is still in progress than that they die in the post-siege mass execution. God told Ezekiel: "But if the wicked will turn from all his sins that he hath committed, and keep all my statutes, and do that which is lawful and right, he shall surely live, he shall not die. All his transgressions that he hath committed, they shall not be mentioned unto him: in his righteousness that he hath done he shall live. Have I any pleasure at all that the wicked should die? saith the Lord GOD: and not that he should return from his ways, and live?" (Ezek. 18:21–23).

This Mosaic law of the siege is still in force. The invading army is not to cut down productive trees or, by extension, burn the crops. Warriors are supposed to battle warriors. The idea that warriors are deliberately to wage war on undefended civilians as a way to weaken the opposing army is a perverse strategy. It is also a basic strategy of modern warfare, beginning with the American Civil War: General Sherman's march to the sea in 1864–65 and General Sheridan's burning of crops in the Shenandoah Valley. These were evil precedents that led to the horrors of World War II's bombing of civilian populations.

50

DOUBLE PORTION, DOUBLE BURDEN

> *If a man have two wives, one beloved, and another hated, and they have born him children, both the beloved and the hated; and if the firstborn son be hers that was hated: Then it shall be, when he maketh his sons to inherit that which he hath, that he may not make the son of the beloved firstborn before the son of the hated, which is indeed the firstborn: But he shall acknowledge the son of the hated for the firstborn, by giving him a double portion of all that he hath: for he is the beginning of his strength; the right of the firstborn is his.*
>
> DEUTERONOMY 21:15–17

The theocentric focus of this law is inheritance: point five of the biblical covenant. It also has to do with boundaries: point three of the biblical covenant.[1]

A. Legitimate Disinheritance: Full or Partial

How much property should specific heirs inherit? What can one heir lawfully lay claim to? What can he exclude from the other heir's possession? The judicial issue here is boundaries.The eldest son inherited a double portion. Why? If we can discover the underlying moral principle here, we can better understand inheritance.

The degree of service owed by someone to another person or group is always proportional to the amount of capital provided for him by the person or group to whom the service is owed. Jesus warned: "And that servant, which knew his lord's will, and prepared not himself, neither did according to his will, shall be beaten with many stripes. But he that knew not, and did commit things worthy of stripes, shall be

1. Gary North, *Boundaries and Dominion: An Economic Commentary on Leviticus*, 2nd ed. (Dallas, Georgia, [1994] 2012).

beaten with few stripes. For unto whomsoever much is given, of him shall be much required: and to whom men have committed much, of him they will ask the more" (Luke 12:47–48).[2]

1. Inheritance and Responsibility

The fact that more was given to the firstborn son meant that more would be required from him. Capital was promised to him by his father; thus, I conclude that he would owe his father and mother services proportional to the promised inheritance. No biblical text says this specifically, but it can be inferred from the principle of mutual obligation.

How did this inheritance system work? Rushdoony described it: "The general rule of inheritance was limited primogeniture, i.e., the oldest son, who had the duty of providing for the entire family in case of need, or of governing the clan, receiving a double portion. If there were two sons, the estate was divided into three portions, the younger son receiving one-third."[3]

The immediate context of this law was the law governing war brides, although the principle of inheritance that is stated here applied beyond the war bride. It applied to Israel as a society that allowed polygamy. It was a land law.[4]

An Israelite warrior was allowed to bring home a woman from a defeated foreign city. In fact, these women had to be brought home. They would not be able to defend themselves if they stayed behind. The question was: Would they become permanent slaves or wives? That is, would they be adopted through marriage? If the captive woman consented to marry an Israelite by paring her fingernails, shaving her head, and mourning for her parents for a month (Deut. 21:12–13), it was legal for him to marry her.[5] Immediately following these laws is the law of the double portion.

The eldest son had to receive the double portion under Mosaic law. This implied that he was to bear a double portion of responsibility in caring for his aged parents. But a father could lawfully disinherit a rebellious son if he had the backing of a covenantal authority. This disinheritance could be accomplished through the civil imposition

2. Gary North, *Treasure and Dominion: An Economic Commentary on Luke*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 28.

3. R. J. Rushdoony, *The Institutes of Biblical Law* (Nutley, New Jersey: Craig Press, 1973), p. 180.

4. On land laws, see Appendix J.

5. Chapter 48:C.

of physical death, as the very next section of Deuteronomy indicates (21:18–23).[6] It could also be accomplished through the ecclesiastical imposition of covenantal death. Excommunication under the Mosaic law removed a man's eligibility to serve in God's holy army. This, in turn, removed his citizenship and his inheritance in the land. Strangers could not inherit rural land, and an excommunicated man was a stranger, i.e., cut off from God's people.

2. Disinherited Firstborn Sons

The eldest son was to inherit a double portion. Nevertheless, the history of the patriarchs reveals something very different in practice: either full disinheritance or a single-portion inheritance of the firstborn son. This began with Adam, who rebelled against God, his father. Adam covenanted with Satan through the serpent by sharing a forbidden covenantal meal with his wife. He violated the boundary of death that God had placed around the forbidden tree. This covenantal act cost him his life. Through grace, however, God granted Adam and Eve time on earth to work out the dominion covenant (Gen. 1:26–28).[7]

Adam had two sons, Cain and Abel. Cain was the firstborn (Gen. 4:1). He was evil. His sacrifice was not acceptable to God (v. 5). He then slew his younger brother. Through grace, God extended Cain's life (v. 15), but He removed Cain from the covenant line. A third son, Seth, youngest of all, replaced Cain as the heir through which the promised seed (Gen. 3:15) would come (Luke 3:38).

Noah had three sons. The eldest was Shem (Gen. 6:10). Shem's line was the covenant line. This indicates that he had been a righteous man who did not warrant disinheritance. But Shem's first two sons did not extend the covenant line; Arphaxad, the third son, did (Gen. 10:24).

Abraham had two sons. The elder, Ishmael, was disinherited by Abraham because he mocked Isaac (Gen. 21:9), who was the true heir of God's promise (Gen. 17:16). Isaac was the second-born son.

Isaac had two sons. The elder, Esau, sold his inheritance to his brother, Jacob, for a mess of pottage (Gen. 25:33).[8] God had already promised Rebekah that the heirs of the elder son would serve the heirs

6. Chapter 51.

7. Gary North, *Sovereignty and Dominion: An Economic Commentary on Genesis* (Dallas, Georgia: Point Five Press, 2012), chaps. 3, 4.

8. *Ibid.*, ch. 26.

of the younger (v. 23). That is, the covenant line would be through Jacob, not Esau.[9] Jacob gained his deserved inheritance-blessing from Isaac (Gen. 27:28–29). Isaac later blessed Esau through a prophesy of Esau's greatness, but he had nothing left of substance to give Esau (vv. 37, 39). He had given Jacob the full inheritance, leaving nothing for Esau. By giving Jacob the full inheritance, believing that Jacob was Esau, Isaac had necessarily disinherited Esau, thinking that he was disinheriting Jacob. Esau was the ethically rebellious son. He had married Canaanite wives, against his parents' wishes (Gen. 26:34–35). After he lost his blessing, his father told him not to marry other Canaanite wives (28:9). His obedience was partial: he married a daughter of Ishmael (28:9), the disinherited son of Abraham. Esau's pattern of rebellion was continual in the key area of covenantal inheritance: marriage. Isaac had sought to escape his responsibility to disinherit his rebellious son by disinheriting Jacob instead. This tactic backfired on Isaac. It led to Esau's complete disinheritance.

The inheritance law helps us to answer the ethical and judicial question: Was it wrong for Rebekah and Jacob to deceive Isaac? The answer is *no*, it was not wrong. Isaac's physical blindness reflected his moral judgment. Jacob and Rebekah took advantage of his physical weakness in order to overcome his moral weakness. They were facing a morally blind old man who would not acknowledge the legitimacy of God's prophecy to Rebekah concerning the two sons and their respective covenant lines, nor would he honor Esau's sale of his birthright to Jacob. Isaac was willing to defy God for the sake of his delight in the taste of venison stew (Gen. 27:3–4). In this, Isaac was as short-sighted as Esau had been when he sold his birthright for a pot of stew. Rebekah was morally and legally justified in undermining her husband's evil plan to disinherit Jacob, and, through this act of rebellion, disinherit God's promised covenant seed.[10] God had specified to her which son should inherit. Isaac was in rebellion.

Jacob's first four sons were Reuben, Simeon, Levi, and Judah. All were born of Leah, the unloved wife (Gen. 29:32–35). One aspect of the double portion was rulership. Jacob gave permanent civil rulership to Judah (Gen. 49:10). He had legitimate covenantal reasons for skipping Reuben, Simeon, and Levi. Reuben had defiled his father's

9. This prophecy extended down to the days of Christ. Herod was an Edomite, an heir of Esau: Josephus, *Antiquities of the Jews*, XIV:I:3. He sought to destroy the promised seed. He failed. Joseph and Mary had removed themselves and their son from Herod's jurisdiction (Matt. 2:13–15). They returned when Herod had died (v. 19).

10. North, *Sovereignty and Dominion*, ch. 27.

bed by having sex with Jacob's concubine, Billah (Gen. 35:22). Simeon and Levi had slain the Shechemites after the Shechemites had submitted to circumcision (Gen. 34:25). This ruthless act of revenge had brought reproach on their father (v. 30). These sons inherited single portions. This left Judah as the primary heir, which involved exercising rulership. The promised seed's covenant line would come through Judah (Luke 3:33).[11]

The case of Judah's sons is the most convoluted of all. His first son, Er, was wicked. God killed him before he conceived a son of his own through Tamar (Gen. 38:7). That is, God cut off Er's covenant line. To restore it biblically, Onan his brother had to marry her.[12] But Onan was also wicked; he married her, but then refused to bear a child with her in his brother's name (v. 9). God killed him, too. The third son was too young to marry. It is clear that Tamar was the victim of her two husbands' evil ways. She was being denied legitimate seed. Tamar then tricked Judah into fathering twin sons with her after the death of Judah's wife. Her son Zarah was the second-born, yet he had very nearly become the firstborn (vv. 28–30). In this case, the promised seed came through the firstborn son, Pharez (Luke 3:33). Yet Pharez was not legally the firstborn son. Shelah, the third son of Judah's first wife, should have been the heir through Judah. But the evil of his two older brothers, coupled with his young age, as well as the evil of his father in lying with Tamar before marriage, thinking she was a prostitute, transferred the covenant line to the surviving second-born son, Pharez. This was done by God for Tamar's sake, who had twice been cheated by evil husbands. Through her the prom-

11. It is not clear from the text that Judah received a double portion. It is also not clear from the allocation of land listed in the Book of Joshua. Rushdoony argued that Jacob awarded a double portion to Joseph, for he gave a blessing to Joseph's two sons. The reason for this, he said, is that Jacob was under Joseph's care in Egypt. Rushdoony, *Institutes*, p. 180. The problem with this argument is that Joshua did not recognize this claim to a double portion in allocating land in Canaan. When the two tribes came to him claiming a right to the double portion—a right based on their numerical strength, not a promised double portion—Joshua told them that they would have to prove their claim on the battlefield by defeating Canaanites who were armed with iron chariots (Josh. 17:13–18). That is, they would have to disinherit the Canaanites, not their brethren, to gain their double portion. Gary North, *Sanctions and Dominion: An Economic Commentary on Number*s, 2nd ed. (Dallas, Georgia: Point Five Press, [1997] 2012), ch. 14:C.

12. "If brethren dwell together, and one of them die, and have no child, the wife of the dead shall not marry without unto a stranger: her husband's brother shall go in unto her, and take her to him to wife, and perform the duty of an husband's brother unto her. And it shall be, that the firstborn which she beareth shall succeed in the name of his brother which is dead, that his name be not put out of Israel" (Deut. 25:5–6). See Chapter 63.

ised seed would come.

In the case of Joseph, the firstborn son of Jacob's beloved wife, Jacob transferred Joseph's single-unit inheritance to Joseph's two sons. Jacob did this prior to his final accounting with his other sons. Manasseh was the firstborn, but Jacob gave the blessing to Ephraim. Joseph tried to correct this, but without success. "And his father refused, and said, I know it, my son, I know it: he also shall become a people, and he also shall be great: but truly his younger brother shall be greater than he, and his seed shall become a multitude of nations" (Gen. 48:19). Jacob offered no reason for this. The second-born son would receive the double portion of Jacob's blessing: authority and population. But this did not necessarily imply that Ephraim would receive a double portion of Joseph's inheritance. In the land distribution under Joshua, the two sons received separate portions based on their military prowess. There is no indication in the text that Ephraim's inheritance was double the size of Manasseh's.

Mosaic law was not formally in force prior to Moses. The patriarchs did not go to priests and civil rulers to legitimize their decisions regarding their sons' inheritance. They made these decisions on their own authority as household priests and rulers. After Moses, the law mandated a system of confirmation for the father's disinheritance of a particular son, which the next section of Deuteronomy reveals. The parents had to bring their rebellious son before the civil magistrate.

The New Testament provides a reason for the persistence of this pattern of inheritance among the patriarchs. Paul referred to Jesus as the last Adam. "And so it is written, The first man Adam was made a living soul; the last Adam was made a quickening spirit" (I Cor. 15:45). The first Adam had forfeited his lawful claim on the inheritance from his father, God. Adam was disinherited. But God then showed grace to Adam. On what legal basis? Because of the perfect righteousness of Jesus Christ. On this basis, God gives common grace to all mankind and special grace to His chosen people: a common salvation (healing) and a special salvation. "For therefore we both labour and suffer reproach, because we trust in the living God, who is the Saviour of all men, specially of those that believe" (I Tim. 4:10).[13] Adam and his heirs have received the gift of life on the basis of the work of

13. Gary North, *Hierarchy and Dominion: An Economic Commentary on First Timothy*, 2nd ed. (Dallas, Georgia: Point Five Press, [2001] 2012), ch. 6; Gary North, *Dominion and Common Grace: The Biblical Basis of Progress* (Tyler, Texas: Institute for Christian Economics, 1987), ch. 1.

the second Adam. Yet even here, the true pattern exists: the firstborn son inherits. Jesus Christ is the incarnation of the second person of the Trinity. He is the only begotten son of God. "But he held his peace, and answered nothing. Again the high priest asked him, and said unto him, Art thou the Christ, the Son of the Blessed? And Jesus said, I am: and ye shall see the Son of man sitting on the right hand of power, and coming in the clouds of heaven" (Mark 14:61–62).

B. Sons and Daughters

Mosaic covenant fathers had the responsibility of assessing the moral character of their sons. Their allocation of the inheritance had to conform to the law of the double portion. They could not, on their own authority, depart from this law. But the law gave no autonomous claim to rebellious sons. God's law does not subsidize evil. Either of the other two covenantal authorities could confirm a father's decision to disinherit a rebellious son. The civil government could enforce such a claim through execution of other, lesser, penalties for lesser infractions; the ecclesiastical government could enforce it through excommunication.

1. Adoption

This law said nothing about daughters. It assumed that daughters would not inherit if a son was still alive at their father's death. Why? To find the answer, we must understand the principle of economic support. Daughters married into another family. Their office as helpers of their husbands meant that their efforts would go to provide support for their husbands' parents. Wives were adopted into their husbands' families.

A father provided a dowry for his daughter in marriage. If he failed to do this, she was a concubine, not a free wife. But a son-in-law provided a bride price to the family of the bride. This kept the dowry from depleting the inheritance of her brothers. This payment exempted the bride from any obligation to support her aged parents. This obligation was her brothers' obligation. By forfeiting any claim on an inheritance, the daughter escaped any future economic burden for supporting her parents.[14] There was a balance to the Mosaic inheritance system.

The traditional description of wives as "barefoot and pregnant" implicitly justifies a system of inheritance that passes all of the par-

14. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 3, *Tools of Dominion* (1990), ch. 32:B:1.

ents' assets to sons and their wives. Daughters for millennia did not receive dowries in the form of formal education. But on the day that a family hired a tutor to teach a daughter to read, that family began to alter the economics of inheritance. As soon as the ability to read meant access to income-producing occupations, an investment in a girl's education began to undermine the traditional system of inheritance. Those traditionalists who long ago opposed formal education for daughters may have sensed the revolutionary social and economic implications of what it meant to have literate women in a society. But that resistance is long gone. From the Reformation until the late nineteenth century, the ability to read in the West meant the ability to read the Bible. The Protestant religion's individualism and its biblicism, coupled with the mass production of printed materials, made literacy cost-effective for the masses. This change in the investment-return ratio for basic education inevitably undermined the traditional system of sons-only inheritance. The daughters received a dowry through education. They were thereby brought under the biblical obligations for supplying a proportional share of parental support if their husbands failed to supply a bride price comparable to the cost of their wives' educations.

2. Modern Times

Prior to the nineteenth century, women had few options to work for money outside the home. Labor was more clearly allocated in terms of physical strength, with the resulting division of labor within the household and within society. This has changed dramatically with the extension of the division of labor and the substitution of mechanical and especially electrical power for human and animal power.[15] When a woman can flip a switch as easily as a man can, the ability to use electrical tools to perform specialized labor then becomes more a matter of skill and temperament than physical strength. Also, there is not much evidence, if any, that indicates that women as a class cannot perform such highly skilled tasks as eye surgery as readily as men can.

Women have entered the work force by the hundreds of millions in the West since World War II. This has been a matter of social convention. This social transformation has been going at least on since the

15. To this should be added the advent of popular contraception techniques. With fewer children, women have reduced their household management burdens. While they fill up their days with activities, no doubt, they bear fewer children because they believe they could not bear the added household burdens.

early nineteenth century, when unmarried women were brought into the textile industry as seamstresses. They had been involved in this industry as wool spinners from ancient times. The division of labor provided by mechanized sewing equipment moved the location of their work. This was part of a social revolution, no doubt, but it was not a revolution in basic skills. It was a revolution in capital formation.

As women have become a source of family monetary income, their ability to support aged parents financially has raised the question of inheritance. Should all of their income go into their husband's family? This raises the question of education. Who paid for their educations? Mass education has enabled women to enter occupations that had been closed to them. More to the point, mass education has created new occupations that did not exist a century ago. If parents pay for a daughter's education, they provide a dowry. If the son-in-law provides no bride price comparable in value to this investment in the bride's education, compounded at a market rate of interest as if it had been a student loan, then her parents have a moral claim on a portion of her wealth and time. To argue otherwise is to argue for the disinheritance of her brothers. If she gets equal funding in her education, but they are alone legally and morally responsible for the support of their aged parents, then the biblical principle of proportional responsibility is violated. Brothers have been decapitalized by sisters.

The tax authorities recognize this relationship between capital invested and payments owed. The state pays for the education of daughters. It therefore taxes daughters when they enter the work force. The state collects taxes to support existing retirees. The system of proportional responsibility is honored to some degree by this system. But, as taxes for retirement systems and state health care rise, the wives become, in effect, the supporters of the aged parents—and not so aged parents—of other families. The share of national income going to pay taxes today is close to the share of income earned by women in the work force. To fund the faceless aged, husbands have sent their wives out to work. This is not the way that husbands and wives think of this financial arrangement, but the numbers reveal that this is essentially the nature of the bargain. The state has paid for the education of women—the wife's dowry—so it collects money from women for the support of the aged. We can call this process the statist bureaucratization of the dowry.

C. New Testament Applications

Is the allocation of a man's inheritance still governed by Deuteronomy 21:15–17? To answer this question, we consider the fact that there have been judicial alterations. First and foremost, there is no longer polygamy under the New Covenant.[16] The church has rejected the idea that polygamy is a valid form of marriage except under highly unusual circumstances.[17] Second, the Mosaic seed laws and land laws have been annulled by the coming of Jesus Christ. Land no longer has a covenantal-prophetic role to play in the history of salvation. Third, the state no longer enforces the laws against rebellious children. Whether it should or not is an issue I deal with in the next chapter. But the fact that the mandated civil sanction of execution no longer threatens a rebellious son has had effects on the administration of this law. Fourth, as we have seen, daughters now inherit.

Daughters have a new legal status under the New Covenant. Females are baptized in the church. The formal mark of covenant blessings and covenant cursings is placed on both sexes. This means that, covenantally speaking, the benefits of inheritance and the threat of disinheritance are presented formally to both sexes. Covenant sanctions ultimately are sanctions of inheritance and disinheritance: in eternity, but also in history.

Then what remains of Deuteronomy's inheritance law? Only the principle of proportionality. Of those assets bequeathed to the children, there should be a double portion for the heir who accepts primary responsibility for the care of the aged parents. If all of them accept equal responsibility, then all should inherit equal portions. Similarly, the son or daughter who abandons every aspect of this family obligation thereby abandons any moral claim on a share of the inheritance. In a biblical commonwealth, this would also mean abandoning a legal claim.

Parents need to make this principle clear to their children. Before the parents are infirm, they should know which children have agreed to accept which burden. This is analogous to an insurance policy. The death benefits paid to the survivors are proportional to the premiums

16. By extending the right of unilateral divorce to wives (Mark 10:2–12), Jesus annulled the right of polygamy to husbands. The negative sanction—no right of remarriage—must apply equally to men and women. North, *Hierarchy and Dominion*, Appendix A.

17. When a man is converted to Christ in a polygamous culture, if he renounces his marriages to all but the first wife, these abandoned wives would become pariahs in the society. They would have nowhere to go. I know of no denomination or missionary group which requires that a new convert do this to his wives.

paid. The common Western practice of parents who refuse to talk about the size of the inheritance, the details of the will and the obligations of the children is biblically perverse. God has set forth this rule of inheritance: *rewards are determined by performance*. This rule applies to each man's eternal inheritance, too. "Now if any man build upon this foundation gold, silver, precious stones, wood, hay, stubble; Every man's work shall be made manifest: for the day shall declare it, because it shall be revealed by fire; and the fire shall try every man's work of what sort it is. If any man's work abide which he hath built thereupon, he shall receive a reward" (I Cor. 3:12–14).[18] "Be not deceived; God is not mocked: for whatsoever a man soweth, that shall he also reap. For he that soweth to his flesh shall of the flesh reap corruption; but he that soweth to the Spirit shall of the Spirit reap life everlasting" (Gal. 6:7–8).[19]

D. Disinheritance by the State

In my discussion of the fifth commandment, "Honour thy father and thy mother" (Ex. 20:12a), I pointed out that the modern messianic state has substituted its claims on men's inheritance for the claims of the true sons. The state has become a pseudo-family, educating children according to its standards and presuppositions, funding health care, paying for men's retirement, and so forth. To do this, the state must decapitalize the family through taxation. The state, unlike a biblically defined family, does not create wealth. It consumes wealth as it redistributes it from one group to another.[20]

The state is an interloper in the lawful system of inheritance. It had presented a false claim, and beginning early in the twentieth century, men have believed this claim. Through graduated taxation schemes (called "progressive"), the state places an ever-greater economic burden on the more productive members of society. The principle of the tithe is denied. The principle of *theft by majority vote* is substituted. The state demands the double portion or more, in the name of its compulsory programs of healing.

This process of disinheritance rests on the covenantal principle that the state is the true son. This disinheritance honors fathers and

18. Gary North, *Judgment and Dominion: An Economic Commentary on First Corinthians*, 2nd ed. (Dallas, Georgia: Point Five Press, [2001] 2012), ch. 3.

19. Gary North, *Ethics and Dominion: An Economic Commentary on the Epistles* (Dallas, Georgia: Point Five Press, 2012), ch. 13.

20. North, *Authority and Dominion*, Part 2, *Decalogue and* Dominion (1986), ch. 25.

mothers in the name of the state. It releases children from the burdens of supporting aged and sick parents. But, having been persuaded of the legitimacy of this new hierarchy of responsibility, voters cannot morally resist the claim of inheritance. Who is the son who deserves the double portion? The one who provides the double portion of support for the aged parents. This means the state. The greater the percentage of support provided by the state, the greater the proportion of the nation's inheritance that is demanded by the state. Why should men expect anything different? The principle of the double portion sets forth the relationship between support and inheritance.

For a son to argue that he is completely responsible for his aged parents is to assert a legal and moral claim on the parents' inheritance. The younger brothers who accept the oldest brother's offer have thereby acquiesced to the implication: a forfeited inheritance. Voters do not recognize the cause-and-effect relationship between the state's offer of support for the aged. They do not recognize the implicit legal claim which the state is making: reducing the ability of economically successful men to pass on wealth to their heirs. As voters transfer more and more responsibility to the state for the care of the aged, the state steadily becomes the substitute heir.

Conclusion

The Mosaic law of inheritance specified that the allocation of the inheritance was by legal right, not by parental discretion. The firstborn son inherited the double portion. This did not mean that a rebellious firstborn son would inherit a double portion or any portion at all. Both the church and the state had the authority to alter an inheritance through covenantal sanctions: excommunication and execution, respectively. This law restricted the right of a father, on his own authority, to alter the inheritance to his sons.

The biblical principle of proportional rewards and the biblical principle of proportional obligations were combined in this law. There were reciprocal obligations between fathers and sons. The promise of a double portion of the inheritance imposed the obligation of a double burden of responsibility to care for aged parents.

The general principle that the firstborn son should inherit a double portion was honored in the breach from Adam to Jacob's 12 sons. Firstborn sons did not inherit in many instances. This indicates that there was covenantal rebellion among the oldest sons, generation after generation. This pattern of the rebellious older son who had

to be disinherited was continual in Old Covenant history. It culminated with the Jews of Jesus' day, who resented the heart-felt welcome and celebration given by the Father for the rebellious but repentant younger brother (Luke 15:29–30). The younger brother in the parable represented the gentiles.[21] The result of this hard-hearted rebellion was the disinheritance of the eldest son. As God's covenant-keeping firstborn son, Jesus prophetically announced the coming disinheritance of the covenant-breaking firstborn son, Old Covenant Israel: "Therefore say I unto you, The kingdom of God shall be taken from you, and given to a nation bringing forth the fruits thereof" (Matt. 21:43). The gentiles would soon inherit the kingdom. The church as the gathering of the saints would soon replace Old Covenant Israel as the true son of the covenant.

In our day, the state has begun to replace the family as the provider of welfare, from womb to tomb. The state asserts its right to educate the children according to its covenant-breaking religious presuppositions. It has gained this authority by offering parents free education, i.e., taxpayer-funded education, for their children. The state offers food for the poor, medical care for the young and the aged, and pensions for all. To fund this comprehensive messianic program of social healing, the state has taxed its subjects vastly beyond the limits of the tithe (I Sam. 8:15, 17).[22] Men pay the state a quadruple tithe or more, while Christians pay the church far less than a tithe.

One result of the rise of messianic politics has been the disinheritance of covenant-keeping children, as the state has de-capitalized the covenantal family. Another result since the 1940s has been the wife who works outside the home: forced into the labor market in order to pay these taxes. Without the taxes provided by these working wives, state-run pension systems would already have collapsed in bankruptcy. These retirement programs will be revised by the politicians, but then they will collapse later, when the economy itself breaks down, or when working wives retire and demand to collect their pensions. These working women have borne few children—below the demographic replacement rate of 2.1 children per family—so a shrinking work force will be called upon to support these long-lived pensioners.[23] The overburdened taxpaying heirs will eventually rebel

21. North, *Treasure and Dominion*, ch. 38.

22. Gary North, *Disobedience and Defeat: An Economic Commentary of the Historical Books* (Dallas, Georgia: Point Five Press, 2012), ch. 14.

23. Peter G. Peterson, *Gray Dawn: How the Coming Age Wave Will Transform America—and the World* (New York: Times Books, 1999).

politically. This system of messianic politics has led to the emasculation of the church, which has turned into a beggar.[24]

24. Gary North, *Tithing and the Church* (Tyler, Texas: Institute for Christian Economics, 1994), ch. 4.

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EXECUTING A REBELLIOUS ADULT SON

If a man have a stubborn and rebellious son, which will not obey the voice of his father, or the voice of his mother, and that, when they have chastened him, will not hearken unto them: Then shall his father and his mother lay hold on him, and bring him out unto the elders of his city, and unto the gate of his place; And they shall say unto the elders of his city, This our son is stubborn and rebellious, he will not obey our voice; he is a glutton, and a drunkard. And all the men of his city shall stone him with stones, that he die: so shalt thou put evil away from among you; and all Israel shall hear, and fear.

DEUTERONOMY 21:18–21

The theocentric basis of this law is God's threat of execution against Adam for rebelling against Him. The passage has to do with sanctions: point four of the biblical covenant.[1] But all Mosaic capital sanctions had to do with putting evil out of the land: exclusion.[2] This law also relates to inheritance: exclusion. In these two ways, this law is an aspect of point three.[3]

A. Adam's Rebellion

Adam was under God's authority because God was his Creator, his Father. Adam was an adult. He was living on his Father's property. The mark of his Father's ownership of both Adam and the world in which Adam dwelled was the forbidden tree. God declared this tree off-limits for Adam. It was not Adam's property, even though Adam was God's heir.

1. Ray R. Sutton, *That You May Prosper: Dominion By Covenant*, 2nd ed. (Tyler, Texas: Institute for Christian Economics, [1987] 1992), ch. 4. Gary North, *Unconditional Surrender: God's Program for Victory*, 5th ed. (Powder Springs Georgia: American Vision, 2010), ch. 4.

2. Deuteronomy 13:5; 17:7; 21:21; 22:21; 22:24.

3. Sutton, *That You May Prosper*, ch. 3. North, *Unconditional Surrender*, ch. 3.

Adam knew that this world belongs to God. As a resident of this world, Adam was required to acknowledge God's total ownership and universal authority, but Adam rebelled against this arrangement. He would not acknowledge God's sovereign ownership.

Consider the way in which his rebellion took place. He rebelled by eating the forbidden fruit. Consumption in this case was a sin for Adam. The modern free market doctrine known as *consumers' sovereignty*, first articulated in the mid-1930s by W. H. Hutt,[4] in this instance applied to God, not Adam. God, as the tree's owner, was a consumer: He had separated the tree and its output for Himself. This form of consumer demand is sometimes called *reservation demand*: demand by the present owner.[5] Whatever income the tree might produce in the future belonged exclusively to God. God was absolutely sovereign over this tree. He was absolutely sovereign over all of the trees, of course, but by placing a verbal "no trespassing" sign around one representative tree, God announced His absolute ownership of the earth and its fruits. By authorizing Adam to eat from all other trees, herbs, and animals (Gen. 2:29–30), He announced His sovereign ownership: His right to share His property with others. God's right to include Adam as a minority shareholder in the creation was publicly revealed by His exclusion of Adam from access to the tree. Adam did not accept his position as a minority shareholder. He wanted exclusive control.[6]

The tree was forbidden to Adam; so, eating from it was Adam's way of expressing his rejection of God's self-asserted authority over Adam and the creation. God tried Adam in a court of civil law, convicted him, and pronounced the death sentence. Nevertheless, God then showed mercy to him by allowing him time to repent, time to bear sons of his own, and time to train them. *Time had not yet run out for Adam*. But this was all a matter of grace: gifts of God that Adam did not deserve. As the injured party, God had the right to extend mercy to Adam: the biblical judicial principle of victim's rights.[7]

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4. W. H. Hutt, "The Nature of Aggressive Selling" (1935), in *Individual Freedom: Selected Works of William H. Hutt*, eds. Svetozar Pejovich and David Klingaman (Westport, Connecticut: Greenwood, 1975), p. 185.

5. Murray N. Rothbard, *Man, Economy, and State: A Treatise on Economic Principles*, 2nd ed. (Auburn, Alabama: Mises Institute, [1962] 2009), pp. 247–48, 253.

6. He could not gain majority control. Man serves one of two masters, God or Mammon, i.e., God or Satan. Adam elected as his representative the representative of Satan, i.e., the serpent. Even when covenant-breaking man believes that he is the President of the corporation, he is in fact operating under a would-be chairman of the board: Satan.

7. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, [1990] 2012), Appendix M; cf. North, *Victim's Rights: The*

B. A Matter of Disinheritance

Deuteronomy 21:18–21 reveals many of the same characteristics as the account of Adam's rebellion. There is a hierarchy of parental authority, and a son breaks it. His ethical rebellion is visible in his gluttony: *rebellion through undisciplined eating*. Adam ate without self-discipline. God tolerated Adam's rebellion for a while; so do the parents in this passage. Judgment finally came on Adam: he died, just as God had promised. So does this rebellious son. Most important for a clear understanding of this passage, Adam was an adult. So is the son in this passage.

This law was not a seed law, relating to the preservation of the tribal system, nor was it a land law. It has to do with universal principles of civil justice and crime prevention. Yet some aspects of it were based on its land law status.[8]

This law was a law of disinheritance. Because a father in Mosaic Israel could not legally disinherit a son on his own authority as the head of the household (Deut. 21:15–17), the family had no autonomous means of disinheritance.[9] This was because of the jubilee land law regarding inheritance. One or both of the other two covenantal institutions had to validate the decision of a parent or parents to disinherit a son: church or state. There had to be a joint institutional declaration against him. No single person or institution possessed the exclusive voice of authority in God's name. There was a balance of authority in Mosaic Israel regarding disinheritance.

First, there is *reversible disinheritance*: ecclesiastical excommunication. The excommunicated son lost his citizenship in Israel. He no longer had legal access to service as a warrior in God's holy army. He therefore could not be a judge, bringing negative covenantal sanctions in God's name. In this sense, the excommunicated man had become a *covenantal stranger*. A stranger could not inherit rural land in Mosaic Israel prior to the return from the Assyrian-Babylonian captivity (Ezek. 47:21–23).[10] This is why excommunication was a form of disinheritance. Because excommunication extends into eternity, this was the most threatening form of disinheritance. Death would seal the priesthood's eternal death sentence. But excommunication is reversible through the excommunicant's public repentance.

Biblical View of Civil Justice (Tyler, Texas: Institute for Christian Economics, 1990).

8. On the categories of the Mosaic law, see Appendix J.

9. Chapter 50.

10. Gary North, *Restoration and Dominion: An Economic Commentary on the Prophets* (Dallas, Georgia: Point Five Press, 2012), ch. 22.

Second, there is *irreversible disinheritance*: civil execution. This is the most threatening form of disinheritance in history, but it has no eternal implications. Israelite parents and the state could not speak authoritatively regarding a man's eternal judicial status; only the Levites could do this. Two-fold disinheritance was eternally permanent: excommunication pronounced judicial sentence historically and eternally, but with the possibility of repentance and the restoration of the forfeited inheritance; execution removes the common grace of time that could lead to the special grace of repentance.[11] The sentence of execution reduces the time available for repentance: from the judges' announcement of the death sentence until its enforcement. For the rebellious son who was brought before the civil authorities by his parents, *time had just about run out*. There would be no further common grace extended to him by God through his parents.

C. What Was the Son's Crime?

A crime is a matter of civil sanctions. Sin may not be. The negative sanction in this case was death: the supreme civil sanction. What, then, was the son's crime? He was a sinner, surely, but were these sins crimes? If they were crimes, why did the parents have to file charges against him? Why hadn't the civil authorities taken independent action against him?

To find the answers, let us go through the steps in this case. The father and mother took their rebellious son before the civil authorities. They informed the authorities of the nature of his infractions: gluttony,[12] drunkenness, and disobedience to parents. Hearing this formal covenant lawsuit against the son, the authorities were required by this law to decide in favor of the parents. While they retained the right of cross-examination to verify the facts, the presumption of this law was that the parents had not testified falsely against their son. Parents may be expected to testify falsely on a son's behalf, but they

11. Gary North, *Dominion and Common Grace: The Biblical Basis of Progress* (Tyler, Texas: Institute for Christian Economics, 1987).

12. In the most popular Bible in the English-speaking fundamentalist world, the trademarked *Scofield Reference Bible* (Oxford University Press, 1909), there is no reference in its concordance to gluttony. There are three categories for alcohol abuse: drunk, drunkard, and drunkenness. This reveals a great deal about fundamentalism's priorities of evil-doing. A 1997 report on the health of Southern Baptist ministers and leaders reported that of some 1,000 attendees at the 1997 Southern Baptist Convention national meeting, 60% of them were at least 20% overweight, compared with 26% of the general public. This was not a random sample, but it was large enough to reveal the presence of a problem. *Dallas Morning News* (Sept. 6, 1997), p. 6 G.

rarely bring false charges against him, especially when the penalty is death. This law assumed that parental love was operating as a disincentive to a false accusation. The accusers therefore had been driven to this extreme remedy by the behavior of their son.

1. An Adult Son

The son was an adult. We know this because of the nature of his sins. He was a drunkard and a glutton. Drunkenness is an adult's sin. In no society that I am aware of has the state ever legalized continual drunkenness for minors. It is clear from the text that the state had no authority to keep him from drinking excessively or eating excessively apart from this formal complaint by his parents—a complaint that necessarily invoked the death penalty. This means that the son was an adult. He would not control himself, and his parents could no longer control him.

His refusal to obey them indicates that their threats no longer scared him. It also indicates that they had run out of threats. Physical punishment by his parents was no longer possible because he was an adult. Disinheritance was not much of a threat, as I shall argue, because he had already been disinherited. Another meaningful threat was for them to throw him out of the house, and I shall argue that they were unwilling to do this for a socially valid reason: their fear that he was unsafe to be in society as an autonomous agent. This leaves only the threat of execution. This, too, had failed. Judgment day had come.

This son was not a criminal. If he had been, the state could have acted independently of the parents. He had not behaved violently against his parents. Had he done so, he would already have been executed. The case laws of Exodus set forth the laws of battery and verbal assault against parents: "And he that smiteth his father, or his mother, shall be surely put to death" (Ex. 21:15). "And he that curseth his father, or his mother, shall surely be put to death" (Ex 21:17).[13] So, his rebellion involved a dissolute life style and disobedience to parents. This behavior had become criminal behavior, but only within the context of the family. It was the covenant lawsuit brought by his parents that transformed his sins into crimes.

2. Criminal Acts

The actions of the son were judicially criminal, for they called forth the death penalty. Yet drunkenness and gluttony are "victimless

13. North, *Authority and Dominion*, ch. 33.

crimes." They do not inflict physical damage on contemporaries. But they do inflict damage on the covenant line: the dissipation of the inheritance. Gluttony and drunkenness are assaults on the family's economic future because they involve the squandering of present resources. These sins of excess transfer wealth from the family that has accumulated it to families that sell food and drink to the wastrel. The son's addiction to wine and food threatens the continuity of family capital. His parents seek a way to put a stop to this.

Why was this transfer of capital a criminal matter? This son was an embarrassment to his parents, but why were his actions matters for the civil court? Why did the court have to execute him? Disobedience to parents is a negative response to positive commands. There had been no parental victim of a verbal assault. He had not stolen from them, beaten them, or in any way threatened him. He had merely ignored their instructions. He was an adult. Was he still required to obey them? On what legal basis could the state execute him? There is a two-fold general principle of biblical civil law: (1) there must be a victim; (2) the state is to prohibit public evil, not seek to make men good. In what way were these parents victims of positive evil? In what way were the sins of drunkenness and gluttony deserving of public execution?

The deciding legal issue here was *continual disobedience to parents*. There is no indication that drunkenness as such was a capital crime in the Mosaic covenant, nor is it a capital crime today. In fact, there is no indication that it is a crime at all. The state has no jurisdiction over drunks who are not threatening other people with bodily injury.[14] The same is true of gluttony. It was not illegal to eat too much, nor is it today. Yet this son was to be executed by stoning, the sign of God's judgment against evil men.

If we eliminate drunkenness and gluttony as the joint basis of his conviction, we are left with disobedience to parents. They could not control him. He was a threat to their authority in the household. He was therefore deserving of death. His gluttony and drunkenness were evidence of his disobedience, not the judicial basis of his execution. *The issue here was disinheritance: irreversible disinheritance*. The parents were so convinced that he was beyond redemption that they were willing to bring him before the civil court for execution. While there is no text that required them first to seek and gain ecclesiastical excommunication, it is likely that they had already done so. This sanction had

14. In today's world, a drunk driver does threaten others.

failed to gain his obedience to them. They were now bringing him to the final court of appeal in history in order to transport him into God's final court of appeal in eternity. In short, they were acting on behalf of God as lawful covenantal authorities. They were bringing a covenant lawsuit against their son.

2. Covenantal Authorities

A parent is required by God to inflict pain on rebellious young children. "He that spareth his rod hateth his son: but he that loveth him chasteneth him betimes" (Prov. 13:24). "Chasten thy son while there is hope, and let not thy soul spare for his crying" (Prov. 19:18). The parent's authority to inflict pain on a disobedient child is basic to the family covenant.[15] The parent possesses the legal right to impose physical sanctions. That is, he is not to be threatened with civil or ecclesiastical sanctions for beating his child, so long as the degree of punishment fits the infraction. This is a fundamental principle of biblical law: the punishment must fit the infraction.

The family covenant does not authorize the imposition of capital punishment by a parent.[16] This is why the Mosaic law required parents to take their rebellious adult son to the officers in the gate, i.e., the civil judges. Under the Mosaic covenant, the state clearly had the right to impose the sanction of execution on a son who was brought before it by the parents. More than this: it had an obligation to do so. Yet the son had not committed any physical violence against his parents. If he had, he would have been subject to execution independent of his parents' formal accusations (Ex. 21:15, 17). Cursing a parent or striking a parent is considered an attack on God and His authority. For the son to escape judgment, his victimized parent would have had to publicly forgive the son for this action. But the son would have been marked as a rebel. Repeated violations would have classified him as a habitual criminal. As we shall see, *this passage implies that habitual criminals in Israel were executed*. So, the mandatory execution of Deuteronomy 21 was not for a positive assault by the rebellious son.

15. This is why modern statist law places legal sanctions on parents who physically beat their children. The messianic state seeks to reserve this monopoly for itself, as the would-be parent of all mankind.

16. Roman law did authorize a father to kill his children. In this sense, legalized abortion is more Roman than Christian. The practice of exposing infants was made illegal in Rome only after a Christian emperor came to the throne, in 374 A.D. The practice nevertheless continued. Alan Watson, *Roman Slave Law* (Baltimore, Maryland: Johns Hopkins University Press, 1987), p. 17.

It was for his disobedience to his parents, as revealed publicly by his drunkenness and his gluttony.

His crime was contumacy: a refusal to obey lawful authority. The parents had lost control over their son, as they admitted publicly: "he will not obey our voice." *In some fundamental way, this man threatened the social order*. If the primary agents of discipline had failed, and were willing publicly to acknowledge this, then the state had to intervene. But was execution mandatory? The text indicates that it was. There seems to be no room for mercy. I have argued that this was not a means of disinheriting him economically. The Levites could have cut him off from his people. In fact, it seems probable that this would already have been done prior to bringing him before the civil government. The church would have cut him off from access to service in God's holy army. This would have effectively removed his citizenship. He would have had no further rights of economic inheritance. *This was a matter of the inheritance of the family name*.

Then why bring him before the judges? Wasn't execution a form of judicial overkill? No; *it was a means of making permanent his judicial disinheritance in history*. It was a means of persuading him to come to grips with the *judicial* meaning of his prior excommunication: the threat of eternal disinheritance. He had run out of time. He could no longer delay the day of reckoning. By bringing him before the civil court, his parents were telling him: "Behold, now is the accepted time; behold, now is the day of salvation" (II Cor. 6:2b).

Note: this law did not apply to daughters. Daughters were not carriers of the family name. This was a family matter that involved the judicial issue of inheritance: the continuity of the family name.

D. Family Name

Both parents had to bring charges against him. This was a capital charge. "At the mouth of two witnesses, or three witnesses, shall he that is worthy of death be put to death; but at the mouth of one witness he shall not be put to death" (Deut. 17:6). In ecclesiastical proceedings for excommunication, the father had the right to bring the son to the Levites for judgment. The preceding passage deals with the eldest son of the first wife, the unloved wife. Reuben, the rebellious son of Leah, was the model.[17] Mosaic law was concerned about inheritance. There had to be a valid reason for any disinheritance. The

17. Jacob made this determination on his own authority as both father and household priest, since this was before there was a separate tribe of priests (Gen. 49).

reason was covenant-breaking. A father did not possess the independent authority to make this determination with respect to the family covenant. Excommunication had to be pronounced by an authorized ecclesiastical officer.

Under such circumstances, the mother of the accused son might have opposed her husband's judgment. She might not have been willing to bring formal charges against her son. The father still had the right to bring such charges for the sake of preserving the inheritance, but it was not for him unilaterally to decide judicially whether his son would inherit family wealth under the Mosaic law.

In contrast to the laws governing excommunication, it took a double witness to invoke the capital sanction. This was a matter of the right of inheritance: irreversible disinheritance. The parents had decided to cut off further mercy. The principle of victim's rights identifies them as the ones who had the right to be merciful. They decided to be merciful to future victims of their son's dissipation.

This son was still under their household jurisdiction. Presumably, he had already been excommunicated. He was no longer a citizen of Israel. He was judicially a stranger in the land. But his parents still allowed him to live in their household. In other words, *they were showing mercy to him, just as God had continued to show mercy to his disinherited son, Adam*. The son could no longer inherit, but he might repent. The parents had not thrown him out of their household. This was a prodigal son who had not gone into another nation to spend his inheritance, for he possessed no inheritance. He was nonetheless a prodigal. Whatever assets he gained through working he spent on strong drink and food.

This son was not merely a slow learner; he was a non-learner. He was not merely a son of Adam; he was a son of Cain. This was a threat to the parents: *because their son was a resident in their household, they would have been liable for his actions outside the home*. Household authority in a patriarchy was very great under the Old Covenant. The father was considered the head of his household. Thus, those who lived under his lawful authority placed him at economic risk. Their law-breaking might result in legal claims against him. *The son's drunken behavior might threaten the non-landed inheritance of the other children*. The parents of an excommunicated son had two ways of reducing their legal liability: send him out of their household or have him removed through execution. Presumably, sending him away was the easiest way. This granted him time for his possible repentance.

It would also have severed the legal tie to him which his continued presence in their household created.

In this instance, however, the parents decided that he was too rebellious to be sent into society. It was therefore not just a matter of their legal liability for his actions, which could be removed by sending him away. Something more crucial than economic liability was involved. He was a potential threat to society. *He was a disgrace to the family name*. To preserve the integrity of the family's name, they could take him before the judges, present their case against him, and have him executed.

The parents made a joint decision: this son deserved to die. His rebellion against them had become a way of life. His rebelliousness was a pattern of behavior. He was a habitual rebel. His drinking and eating habits testified to this. He was in bondage to sin. He was not fit to be sent into society. As his parents, they had the joint authority to make this determination. *The civil magistrates were required to enforce this decision*. The civil magistrates had to accept the testimony of the parents when supported by independent evidence: the son's eating and drinking habits. They had to acknowledge the authority of the parents to protect society and the family name by removing their rebellious son from any further mercy. If parents believed that their son was both incorrigible and a threat to society, their assessment had to be honored by the state.

E. Supporting Family Authority

Heads of household in Israel were not allowed to impose the covenantal sanctions of excommunication or execution. These covenant sanctions were outside of their lawful sphere of authority. Because the ultimate physical sanction of execution was prohibited to them, they lacked a powerful negative sanction. They also could not impose the maximum sanction of excommunication. Presumably, the Levites had already done this. Nevertheless, their son was still a rebel. They still could not control him. If the three sanctions of excommunication, revocation of citizenship, and reversible disinheritance had not thrown the fear of God into him, what would? The fear of execution: irreversible disinheritance. Without this, he could not be controlled.

The parents could not impose this sanction on their own authority. But without this threat, they could not maintain control in their own household. They had to be backed up by the civil government, which possessed the authority to impose this sanction. So, in this case, the

state became the supporting agency of parental authority. The parents were restrained by law from imposing the ultimate remaining sanction. But somebody had to.

The parents had decided that this son was not fit to be released into society without being under family jurisdiction, and they were no longer willing to accept this responsibility. He was too great a liability. They could no longer control him, and they also could no longer risk keeping them under their legal authority. The church could not control him. Who could? The state. The state had to be called in to support the judgment of his parents: he was not fit to stay alive. If parents were willing to say this in public, their judgment had to be honored. The state had to execute him. This was a two-fold matter of preserving family authority and preserving public safety.

What was his crime? Contumacy. He had rebelled so continually against family authority that this constituted a threat to society. His family possessed the authority to tell him to quit practicing evils that fell short of public actions that were subject to civil sanctions. The state could do nothing on its own authority to stop him from excessive drinking and eating apart from this formal accusation by his parents. To keep state authority on a tight chain, the Mosaic law did not authorize the state to execute people for drunkenness and gluttony. Therefore, in order to reinforce family authority, the Mosaic law granted to parents the right to invoke the permanent civil sanction against their son. Neither covenantal institution could impose this sanction on its own authority. This kept both forms of authority in check. It took joint action on the part of both covenantal authorities to remove a rebellious son.

Because of the nature of authority in Mosaic Israel, the church presumably had already imposed its ultimate sanction: excommunication. The text does not reveal this, but we can safely presume that the parents would not have resorted to this final declaration of their inability to control their son unless the church had also failed in its attempt to support family authority.

The heads of a household had an enormous responsibility in Mosaic Israel. They were asked to subordinate the traditional and nearly universal bonds of parental affection to the larger purpose of defending God's law. One aspect of this defense was the preservation of family capital. A wastrel son was dissipating family capital and, by implication, the family line. The parents were called on by God to put

an end to this destruction of the family line.[18] They were to call on the state to destroy the destroyer.

This meant that there had to be another heir through whom family capital could be extended. This family was in a situation analogous to Adam and Eve after Cain killed Abel. While God protected Cain from execution, He also removed him from his parents' presence. A new son, Seth, became the heir of his parents. Through Seth came the covenant line (Luke 3:38). A similar problem faced the parents of a rebellious son. If they had no other son, then they would either have to pray for one or else adopt one. *The point is, it took faith in God's plan for parents to bring a rebellious son before the civil rulers. It took faith in God's provision of a replacement heir*. Parents would have to place obedience to God's law over bloodline inheritance in the extension of the family's legacy through time.

F. Family, Society, and State

This degree of religious faith is rarely present in any family. Families are normally highly protective of their members. They place members inside a shield of toleration and protection from outside criticism. They resist the intrusion of outsiders who would bring a covenant lawsuit against a member. But God's law requires parents not only to avoid such defensive arrangements but actually initiate the covenant lawsuit against a wastrel son. *This act of covenantal judgment visibly places the family under God's law*. The state has no independent authority to initiate this covenant lawsuit. It must wait on the parents to do their duty. The magistrates must order the execution of the son on the word of the parents. The authority of the two witnesses must be respected. The witnesses act as agents of the court.

Parents in Israel who refused to do their duty faced a choice: (1) continue to protect the wastrel, thereby placing family capital at risk, either through his dissipating ways or through lawsuits brought against them as responsible agents over him when he commits a crime; or (2) send him out into society on his own, thereby placing others at risk. Parents may have decided that the former decision was too risky for family capital, but the second choice shifted the risk to outsiders. The law was clear: parents were not to do this. *They were to protect society by delivering their son up for execution*. They were to subordinate family ties to the glory of God and the needs of law-abiding society.

18. The heirs of such a man would likely become covenant-breakers. They would die in their sins.

Apart from a radical transformation of men's allegiance and understanding, it is unlikely that most family heads will ever do their duty in this regard. Rather, they will subordinate society to family ties. But when they do this, they transfer power to the state. They defer to the state the responsibility of bringing a covenant lawsuit against a known wastrel. But before the state can lawfully bring a covenant lawsuit against him, there must be a victim. He must harm someone. *Thus, the unwillingness of families to subordinate their interests to God's law leads to an increase of crime and social disorder*. Those who know that a wastrel is dangerous to society have nonetheless sent him out into society. They have washed their hands of him by sending a potential wolf among sheep. In doing so, they have raised the risk of harm to others. *Parents are a godly society's first line of defense against evil*. This law makes it clear just how important parental responsibility is, and just how burdensome. Parents must subordinate their love for their son to the law of God and the needs of society. They must place God's interest above family interests. Jesus said: "He that loveth father or mother more than me is not worthy of me: and he that loveth son or daughter more than me is not worthy of me" (Matt. 10:37). This law indicates that Jesus was drawing upon an Old Covenant principle when he announced His judgment against the cult of the family.[19]

G. Rushdoony's Interpretation: Juvenile Delinquency

Rushdoony discussed this passage in several places in *The Institutes of Biblical Law*. He says that this passage refers to "incorrigible juvenile delinquents."[20] He repeats this in a section dealing with the Fifth Commandment: "The Economics of the Family."[21] He discusses this law at length in the section on "The Family and Delinquency."[22] He cited it when discussing family authority and law enforcement.

> The family very clearly has a serious role in law enforcement. The family is a law-order and disciplines its members. The nature and extent of the family's punishing power can be seen by looking again at a text previously considered, Deuteronomy 21:18–21, the death penalty for juvenile delinquents. There are certain very important aspects to this law. *First*, the parents are to be complaining witnesses against their criminal son. The

19. Cf. Gary North, *Baptized Patriarchalism: The Cult of the Family* (Tyler, Texas: Institute for Christian Economics, 1994), pp. 1–3.

20. R. J. Rushdoony, *The Institutes of Biblical Law* (Nutley, New Jersey: Craig Press, 1973), p. 77.

21. *Ibid.*, p. 180.

22. *Ibid.*, pp. 185–99.

> loyalty of the parents must thus be to God's law-order, not to ties of blood. If the parents do not assist in the prosecution of a criminal child, they are then accessories to the crime. *Second*, contrary to the usual custom, whereby witnesses led in the execution, in this case, "the men of the city" did. Thus, where the death penalty was involved, the family was excluded from the execution of the law.[23]

But this law went beyond mere family authority, he said. It extended to society at large: the prevention of the creation of a criminal class. He wrote:

> *Third*, as we have seen, incorrigible juvenile delinquents were to be executed (Deut. 21:18–21), and also all habitual criminals. Such persons were thus blotted out of the commonwealth. When and if this law is observed, ungodly families who are given to lawlessness are denied a place in the nation. The law thus clearly works to eliminate all but the godly families.[24]

> Clearly, then, the intent of this law is that all incorrigible and habitual criminals be executed. If a criminal son is to be executed, how much more so a neighbor or fellow Hebrew who has become an incorrigible criminal? If the family must align itself with the execution of an incorrigibly delinquent son, will it not demand the death penalty of an habitual criminal in the community? . . . The purpose of this law is to eliminate entirely a criminal element from the nation, a professional criminal class. . . . Biblical law does not recognize a professional criminal element: the potentially habitual criminal must be executed as soon as he gives plain evidence of this fact.[25]

The breakdown of family authority in the inner cities in the United States has led to a replacement institution: the gang. The gang provides community, authority, commitment, and income. It is bound by a self-maledictory covenant oath. The gang has become the primary agency of physical sanctions in the predominantly non-white inner cities. Gangs of teenage boys have become the single major source of crime. These gangs are masters of the illegal drug trade. They are spreading across the nation, replacing the Mafia and other traditional criminal syndicates. They are well organized and difficult for law enforcement authorities to penetrate.

These developments were implied in Rushdoony's analysis of this passage, which he offered a decade prior to the public's recognition of the plague of gang life. Yet his actual exposition is ignored by igno-

23. *Ibid.*, pp. 359–60.
24. *Ibid.*, p. 380.
25. *Ibid.*, pp. 187–88.

rant or willfully perverse Christian critics of theonomy who imagine that they are more humane than God, let alone Rushdoony. "Theonomists would execute little children!" they cry in horror, never bothering to read Rushdoony's clear statements regarding this law, never considering the threat of juvenile delinquency to residents of inner cities. In the white middle-class safety of the suburbs,[26] critics issue smug dismissals of theonomy in the name of tender little children. (When they are mugged in a parking lot, however, they call on the state to imprison these teenage thugs and throw away the key.) They impugn God by impugning Rushdoony. They ridicule God's law by ridiculing their version of what they think Rushdoony said. They do not attempt to exegete Deuteronomy 21:18–21; they just continue to cry out, "The theonomists would execute little children." The ancient heresy of Marcionism is with us still: the belief that an evil God gave us the Old Covenant, but a loving God gave us the New Testament. The critics of theonomy never put things quite this bluntly, but what they write and say about the capital crimes and sanctions of the Mosaic law indicates that they believe it.

H. Adult Contumacy

My interpretation is different from Rushdoony's. I do not think the son was a juvenile delinquent. He was a delinquent, but he was no juvenile. In today's usage, "juvenile delinquent" means "a convicted criminal who is not old enough to be dealt with by civil law as an adult, and who is therefore under milder civil sanctions." This was not the legal status of the son in this passage. He was not yet an identifiable criminal. He had not broken any civil laws. He had not been convicted of any crime. Here was his legal status: he was under his parents' legal authority; he was a glutton and a drunkard; he would not obey his parents; and they could not control him by means of family sanctions. Presumably, he was also an excommunicant. He was on the road to perdition, and he was a disgrace to the family name. His parents believed that he was too dangerous to be sent into society as a disinherited stranger. Before he committed any crime, his parents brought him to the civil authorities to have him executed.

This means that merely by his continual refusal to obey them, coupled with the marks of uncontrollable behavior—gluttony and drunkenness—he had committed a capital crime. This in turn means that

26. Possibly a temporary condition of safety.

open, wilful, publicly visible rebellion against joint parental authority was a crime equal to murder, for the civil sanction was the same. It was not gluttony and drunkenness that constituted his crime; it was his long-term rebellion against family authority while living under that authority. This was Adam's crime, too: eating what his Father had prohibited. He died for this sin. So will you, apart from God's adoption. Man's mortality is the result of original sin.

This was an adult who was still living in his parents' household. Rushdoony was correct: *this law, when enforced, restricts the formation of a criminal class*. This law and its capital sanction serves as a model of the biblically mandatory hostility that a godly society must have against habitual criminal behavior. If parents are not to tolerate continual rebellion against family authority, to the point of demanding that their son be executed by stoning, then how much less toleration should a society show toward incorrigible breakers of the civil law! If parents must be willing to bring a capital covenant lawsuit against their own flesh and blood, how much more ready must citizens be to rid society of habitual criminals! If it is a capital crime for a man to drink too much and eat too much and disobey his parents in the privacy of their home, then it surely is a capital crime to be convicted of a third or fourth felony. *The civil government should not lock up incorrigible felons and throw away the keys. It should execute them*. As the Bible says about the rebellious son, "And all the men of his city shall stone him with stones, that he die: so shalt thou put evil away from among you; and all Israel shall hear, and fear" (Deut. 21:21). If all Israel was to fear becoming a rebellious son, surely every Israelite was to fear becoming a habitual felon.

I. Illegal Drugs and the Messianic State

Today, men and women around the world call upon the state to deal with drug dealers. They do so in the name of their children. They cry out to the state: "We cannot control our children. They are addicted. They steal from us. They lie to us. They rebel against our authority continually. Therefore, we must arrest drug dealers, convict them, imprison them, and throw away the key!" What they do not say is this: "This our son is stubborn and rebellious; he will not obey our voice. He is a drug addict. Stone him to death. So shall other people's sons learn to fear."

The state responds to political pressure by passing innumerable laws against addictive drugs. Nevertheless, the addiction spreads. The

state takes away more and more civil liberties, especially privacy, in the name of the war on drugs. Nevertheless, this war is visibly being lost. The public believes that the sale of addictive drugs should be made illegal. What the public does not believe is that their own sons and daughters are making self-conscious decisions to spend money on substances that will addict them, knowing full well that these drugs are dangerously addictive. They see their children as ill-informed. But it is the parents who are ill-informed; their children know a great deal about drugs. This is not an information problem. It is a moral problem. It is also an incentive problem: lack of fear of the legal consequences.

Children in the West have wealth at their disposal greater than what the rebellious Israelite son possessed. Sons and daughters in today's world of unprecedented wealth have great purchasing power. They are nevertheless wilfully destroying themselves, squandering their inheritance, not in some far country, as the prodigal son did, but in the bedrooms of their parents' homes. They are perfect examples of the rebellious son of Deuteronomy 21.

Here is why the drug trade flourishes: parents have given their children enormous wealth without guidance or restrictions and have sent them into the government's tax-funded schools, which have become the primary marketplace for drugs, especially in the early stages of addiction. *The modern public school is a state-funded illegal drug emporium*. Students have accepted the religion of humanism that the public schools proclaim: the Darwinian story of man as the heir of beasts and meaningless cosmic chance. They have learned their school lessons well. They celebrate the religion of humanism with the high-efficiency tools of the "cool" drunkard: mind-altering drugs.

Instead of cutting off their children's funds, pulling them out of the public schools, and monitoring their daily activities from morning to night, parents call for more government spending on drug rehabilitation programs, more government money for drug education programs in the public schools, and more government money for drug enforcement programs. In short, they call for more of the same: more humanism, more statism, and more prisons. The parents believe in the religious precept of classical Greece, which is taught in the public schools, namely, that man's problem is educational rather than moral, that man can be saved through law and legislation. The parents worship at the altar of the messianic state and then wonder why their children are tempted by drugs.

The key issue here is not the question of the legalization of drugs. The question here is the primary locus of enforcement. *The biblical locus of primary law enforcement is the family*. The Bible acknowledges that the institution with the lowest cost of obtaining accurate information should be the initial law enforcing agent. This is obviously the family in cases of gluttony, drunkenness, and drug addiction. Any attempt by parents to shift the locus of primary responsibility to either school or state is illegitimate.

Similarly, if we differentiate between the teenage child and the adult child, calling for reduced penalties for the child because of the child's lack of maturity—as we do with tobacco sales—then the penalty could be less than stoning. It might be public whipping: more lashes for students who had sold drugs to finance their habits than for final users. The point is, there has to be a severe public sanction against such rebellious behavior as drug addiction. If parents are unwilling to bring their rebellious children before the magistrates in the name of God, the family's name, and the protection of society, then we can expect the drug plague to continue and the steady disappearance of our freedoms.

This passage in Deuteronomy offers a solution: execution of rebellious heirs. But modern man is too humane for this. Too human. Too humanistic. He prefers living under the messianic state to living under biblical law. He prefers statism to family responsibility. He prefers a growing international criminal class built on drug profits to bringing a capital covenant lawsuit against his own rebellious child. He is ready to send all drug dealers to prison for decades until the day he is told that his child supported his or her habit by luring other men's children into the heartless addiction; then he cries out for a tax-financed drug rehabilitation program rather than prison for his supposedly victimized child. He prefers a massive and costly prison system that clearly is not working to low-budget whipping or stoning that would work very well. In the final analysis, he would rather see his adult child stoned on drugs than stoned by citizens. He ignores the Bible's warnings: "Be not deceived; God is not mocked: for whatsoever a man soweth, that shall he also reap" (Gal. 6:7).

Conclusion

The law governing the rebellious adult son was a law supporting family authority. The magnitude of the civil sanction indicates the severity of the crime and the importance of preserving family authority.

But this law had social implications as well. *It was a law that offered protection to society from an organized criminal class.*

This law was a step beyond the negative sanction of excommunication, which governed citizenship and therefore inheritance. Inheritance in Mosaic Israel was an aspect of the seed laws and the land laws. It also had to do with eligibility to serve in God's holy army. This law seems to have been a law governing an excommunicated, disinherited son, although no text explicitly says this. The parents had run out of negative sanctions other than sending him away from the household, which they regarded as too risky for society. They had to appeal to the state to impose the maximum negative sanction that remained to be imposed on rebels. This law had to do with three things: family authority, disinheritance, and the protection of the general public. The parents, who were legally able to remove him both geographically and legally from the economic benefits of their household, refused to do this. They must have believed that it was not safe to remove him from their judicial authority as a member of their household. They feared that he would become a threat to society. Thus, to preserve the integrity of the family name and to protect society from a lawless rebel who had not yet become a habitual criminal, but who probably would if he was out from under their authority, they brought charges against him in a civil court. The court had to impose the death penalty, given the testimony of the parents and the evidence of both his gluttony and drunkenness.

There is no indication that this law has been annulled by the New Covenant. It was neither a seed law (tribal) nor a land law. There was a need for his execution in order to preserve the family's good name and to protect society. Without the willingness of a few parents to take this extreme measure, rebellious adult sons would learn not to fear their parents. These dedicated parents, who placed God's law, family authority, family reputation, covenantal inheritance, and social safety above their own emotional commitment to their son's biological survival, would serve as representatives for the whole society. The actual execution of a rebellious son would reinforce parental authority in many families. These goals have not changed with the coming of the New Covenant. In today's world, the son might be a drug addict rather than a drunken glutton. The point is, he must be visibly out of control. But there must be a two-fold witness against his rebellion. It is not sufficient that he be out of control, though not a law-breaker, for the state to execute him. It is also not sufficient for

the parents to bring charges against him. There must be a two-fold witness against him: (1) two parents testifying to his rebellion and (2) publicly verifiable evidence of either his unwillingness or inability to control his own actions.

There has been one major alteration in the application of this law, however. The New Covenant has increased the responsibility of daughters. Daughters are baptized. They are placed under the covenant's dual sanctions: blessing and cursing. Daughters can inherit if they agree to bear the responsibility of caring for aged parents.[27] To limit the application of this law to sons is illegitimate today. If daughters are rebellious, financially able to become drunkards and gluttons or crack-cocaine addicts, and are still living under their parents' household jurisdiction, then there is no judicial reason for them not to come under this law.

Ever since the publication of Rushdoony's *Institutes of Biblical Law* in 1973, critics of biblical law have repeatedly focused on this law as the sign that theonomy is perverse. In private conversations, I have heard this biblical passage invoked more often than any other as evidence that theonomy is heartless and cruel. Yet the critics never cite Rushdoony's argument that this was a law against the formation of a criminal class. Instead, they cite—and condemn—only the law itself. The critics' theological problem is this: their belief that the Old Covenant God must have been heartless and cruel. They hold the Marcionite dogma. Again and again, we hear the refrain: "Theonomists would execute little children!"[28] It is time for this misinterpretation to end. But it won't. It is too convenient a rhetorical device for modern-day Marcionites to resist.

27. Chapter 50:B.

28. I once received a letter from a Westminster Seminary graduate who had not been offered a job. He wanted me to hire him. He also wanted Bahnsen to hire him. He misspelled Rushdoony's name in his affirmation that he was familiar with theonomy, although not yet willing to subscribe to theonomy. I mentioned the possibility that I might be willing to hire him and his wife to run a day care facility. He wrote back that his wife found it odd that anyone who believed in stoning children was ready to start a day care. Needless to say, I did not hire him. His verbally clever but theologically ill-informed wife cost them an opportunity to begin a potentially lucrative and satisfying career with my money. His wife was simply repeating what has become a common misrepresentation of the theonomic interpretation of this passage.

52

LOST AND FOUND

> *Thou shalt not see thy brother's ox or his sheep go astray, and hide thyself from them: thou shalt in any case bring them again unto thy brother. And if thy brother be not nigh unto thee, or if thou know him not, then thou shalt bring it unto thine own house, and it shall be with thee until thy brother seek after it, and thou shalt restore it to him again. In like manner shalt thou do with his ass; and so shalt thou do with his raiment; and with all lost things of thy brother's, which he hath lost, and thou hast found, shalt thou do likewise: thou mayest not hide thyself. Thou shalt not see thy brother's ass or his ox fall down by the way, and hide thyself from them: thou shalt surely help him to lift them up again.*
>
> DEUTERONOMY 22:1–4

The theocentric issue here is God's primary ownership. He places boundaries around what is His, beginning with the forbidden tree. Boundaries are an aspect of point three of the biblical covenant.[1] God delegates temporary control over His property. This relates to point two: hierarchy.[2]

A. Delegated Ownership

These laws governing lost property were extensions of Exodus 23:4–5: "If thou meet thine enemy's ox or his ass going astray, thou shalt surely bring it back to him again. If thou see the ass of him that hateth thee lying under his burden, and wouldest forbear to help him, thou shalt surely help with him." Extending what I wrote in chap-

1. Gary North, *Boundaries and Dominion: The Economics of Leviticus*, 2nd ed. (Dallas, Georgia: Point Five Press, [1994] 2012).

2. Ray R. Sutton, *That You May Prosper: Dominion By Covenant*, 2nd ed. (Tyler, Texas: Institute for Christian Economics, [1987] 1992), ch. 2. Gary North, *Unconditional Surrender: God's Program for Victory*, 5th ed. (Powder Springs, Georgia: American Vision, [1980] 2010), ch. 2.

ter 51 of *Authority and Dominion* regarding the Exodus passage, these laws, since they deal with property, were governed by the theocentric principle of God as the cosmic Owner. He has delegated ownership of selected portions of His property to individuals and organizations, so that they might work out their salvation or damnation with fear and trembling (Phil. 2:12). Because God has delegated responsibility for the care and use of His property to specific individuals or organizations, who are held responsible for its management, non-owners are required by God to honor this distribution of ownership and its associated responsibilities.[3] This includes even the return of lost property to its owner.

These were neither seed laws nor land laws. They were cross-boundary laws.[4] These laws mandate the public's recognition that all ownership is delegated and therefore representative. Ownership means lawful delegated control over the use of a scarce economic resource. The stranger who finds a lost item becomes a delegated owner working on behalf of the property's two owners: God and the delegated owner. There is a new hierarchy of ownership: God > legally responsible title holder > discoverer. The discoverer is under the greatest legal constraints governing the use of the property because he does not hold title, yet he now possesses physical control over the property. The fundamental principle of all biblical government is this: *with power comes responsibility*. The discoverer cannot legally escape responsibility before God, for God has transferred to the discoverer a temporary, though highly restrictive, administrative legal title. This is why the law does not identify the discoverer as a thief.

Because these laws are so similar to the Exodus laws, I reproduce here much of chapter 51 of *Authority and Dominion*. Some readers may not own a copy of my earlier book. It may be inconvenient for them to locate a copy. It is easy for me to reprint what I wrote there, but with a few modifications. The Exodus case laws single out enemies. These do not. The Exodus law regarding the lost animal is the stronger law because it deals with an animal owned by an enemy. The Deuteronomy version is more general: the finder may not know who owns the wandering beast. Because of his lack of information, he is required to expend resources to care for the animal until the owner claims them. The finder's lack of information leads to expenses associated with

3. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 3, *Tools of Dominion* (1990), ch. 51.

4. On the categories of the Mosaic law, see Appendix J.

caretaking. In this regard, this case law is also an extension of the caretaking law.[5]

I focus here on the law regarding the lost animal, although the same principles of responsible administration govern all forms of lost property. Consider the law of the fallen animal (Ex. 23:5). This is a simple case law: help the animal. It does not matter who its owner is. This assistance is a charitable subsidy to both the animal and its owner. It creates good feelings. A good deed done on behalf of the fallen animal should be seen by the owner as a sign of the helper's righteousness. It testifies to the helper's commitment to God's law. Because the law of the fallen animal is an uncomplicated law, I do not devote much space to discussing it.

Let us consider more carefully the law governing the lost animal. There are several beneficial results of this moral law whenever it is widely obeyed. First, it upholds the sanctity of the legal rights of property owners. Second, it reasserts man's legitimate control over the animal creation. Third, it increases the bonds of friendship among men with a common confession of faith. Fourth, the passage of time makes it easier to identify thieves. Fifth, it provides an incentive to develop marks of private ownership, such as brands on animals.

This law is not a civil law. Biblical civil law invokes only negative sanctions against public evil. This is because the state is not an agent of salvation. It cannot lawfully seek to make men good. It is limited to imposing negative sanctions that will make men's evil acts more expensive, thereby reducing the number of evil acts. When the state mandates charity, civil law becomes a source of positive sanctions. But these laws, like the laws of Exodus 23:4–5, are positive, charitable injunctions.

B. The Owner's Right to Exclude

There is a rhyme that English-speaking children chant: "Finders, keepers; losers, weepers." When one child finds a toy or possession of another, he torments the owner with this chant. Yet his very chanting testifies to the fact that the tormenter really does not believe in his own ethical position. If he really wanted to keep the object, he would not admit to the victim that he had found it. He would forego the joys of tormenting the victim for the pleasure of keeping the object. The tormented owner can always appeal to his own parents, who will then

5. *Ibid.*, ch. 46.

go to the parents of the tormenter. In Western society, most parents know that the discovered object is owned by the loser.

From time to time, someone discovers a very valuable lost object, such as a sack of paper money that dropped out of an armored car. When he returns it to the owner, the newspapers record the story. Invariably, the doer of the good deed receives a series of telephone calls and letters from anonymous people who inform him that he was a fool, that he should have kept the money. Again, this is evidence of the West's dominant ethical position: the critics prefer to remain anonymous.

From a legal standpoint, the reason why the law requires the finder to return the lost item to the owner is that the owner owns the rights of use and disposal of the property. What is owned is the right to exclude other people from using the property. This "bundle of rights" is the essence of ownership. The capitalist system is not based on "property rights"; it is based on some person's legal right to control the use and disposal of property. Nothing inheres in the property that gives these rights.

There is another familiar phrase, "possession is nine-tenths of the law." This is incorrectly stated, if by "possession" we mean physical control over some object. The possession which is nine-tenths of the law is the possession of *the legal right to exclude*, not possession of the physical object itself. The object does not carry this legal right with it when it wanders off or is lost by the owner.

We can see this easily when we consider the case of a lost child. The fact that someone discovers a lost child obviously transfers no legal right to keep the child. The child is to be returned to the parents or to the civil authorities, who act as legal agents of the parents. Possession is clearly not nine-tenths of the law. If anything, possession of a long-lost child subjects a person to the threat of being charged with kidnapping. Because God is the ultimate owner of mankind, He has delegated the legal right to control children to parents, except in cases of physical abuse by parents which threatens the life of the child. In short, parental sovereignty is nine-tenths of the law, not merely possession of physical control over a particular child.

When someone who discovers another person's property is required by God to return it to its owner, there can be no doubt concerning the Bible's commitment to the private ownership of the means of production. *Biblical moral law, when obeyed, produces a capitalist economic order. Socialism is anti-biblical*. Where biblical moral law is self-enforced, and

biblical civil law is publicly enforced, capitalism *must* develop. One reason why so many modern Christian college professors in the social sciences are vocal in their opposition to biblical law is that they are deeply influenced by socialist economic thought. They recognize clearly that their socialist conclusions are incompatible with biblical law, so they have abandoned biblical law.[6]

C. Dominion Through Judgment

This case law extends man's dominion over nature: domesticated animals are not to "run wild." They are under man's care and protection. This reasserts man's place under God but above the animals: point two of the biblical covenant, hierarchy.

A lost animal can damage other people's property (Ex. 22:5).[7] It can wander into a pit and get hurt or killed (Ex. 21:33–34).[8] It can injure men or other animals (Ex. 21:35–36).[9] To have a domesticated lost animal wandering without any form of supervision testifies against the dominion covenant. It is a sign that God's required moral and hierarchical order has broken down. It is an aspect of God's curse when beasts inherit the land (Ex. 23:29). In short, animals that are capable of being domesticated require supervision by man.

No man's knowledge is perfect. Men can lose control over their domestic work animals. When they do, it becomes a moral responsibility for other men to intervene and restore hierarchical order. This is done for the sake of biblical social order: (1) for the individual who has lost control over his animal and who is legally responsible for any damage that it might perform, and (2) for the sake of the animal.

A domesticated animal such as an ox is a capital asset, a tool of production. Mankind's development of tools of production is the basis of economic growth. The loss of a trained work animal reduces its owner's ability to subdue his portion of the earth. This sets back the fulfillment of God's dominion covenant with mankind. This loss of production reduces the per capita economic growth of the whole community, even though this corporate loss may not be large enough to be perceived by men. The person who finds a lost animal is re-

6. A good example of such antinomian socialist reasoning is John Gladwin, "Centralist Economics," in Robert Clouse (ed.), *Wealth and Poverty: Four Christian Views of Economics* (Downers Grove, Illinois: InterVarsity Press, 1984), ch. 4. See also my response, *ibid.*, pp. 198–203.

7. North, *Authority and Dominion*, ch. 44.

8. *Ibid.*, ch. 41.

9. *Ibid.*, ch. 42.

quired to restore it to the owner, even though this involves economic sacrifice on his part. In the long run, this implicit sanctioning of privately owned capital will produce increased wealth for all.

The biblical imagery of the lost sheep of Israel is indicative of the central concern of the Bible: *the restoration of moral and legal order, the overcoming of sin and its effects*. Lost sheep in history need a shepherd. They are wandering toward destruction. God intervenes and brings them home. The New Testament imagery of Jesus as the *good shepherd* points to the theme of *restoration*.

Even if biblical civil law mandated private charity—negative sanctions on one person for the sake of positive sanctions to another—it would be close to impossible to gain a court's conviction against anyone who ignored this law and let the animal continue to wander. There would have to be at least two witnesses. The accused person could claim that he had never noticed the animal or any other lost object. It is also difficult to imagine what civil penalties might be attached to this law. We therefore should conclude that the enforcement of this law is based on *self-government under God's law*. The person who returns a lost object to its owner is demonstrating that he has acted out of concern for God's law, not out of concern for civil sanctions. He is a person who exercises self-government under God's law. Again, it becomes more difficult to entertain suspicions about his overall ulterior motives.

Let us assume that the discoverer has found the animal in his garden or his fields. He wants to get it away from his crops. He is not allowed by law to kill it. It is not responsible for its actions. To get it away from his crops, he must either take it down to the edge of his property and shoo it away, or else he must place it in a pen or other restrictive area. To keep from losing wealth because of its unrestricted access to his crops, he must go to the trouble of placing it under restraints. If he wants to be reimbursed for the crops it consumed or any damage it caused, he must locate its owner. The economics of a wandering beast in a biblical commonwealth provides incentives, both positive and negative, for the righteous man to become a caretaker of the lost animal.

The person who steals an animal and is immediately arrested could offer this excuse: "I found this animal wandering in the area, and I was simply returning it to its owner. I did not know who owned it, so I was taking it home until I could make further inquiries." This excuse might work once or twice. It would not be a suitable excuse three or

four times. A person who lives in a society that has developed an information reporting system, in order to avoid suspicion, must report the whereabouts of lost articles to the civil authorities if he does not know who the owner is. Thus, as time passes, the "excuse of the wandering animal" fades. The owner who discovers his animal in another's possession has a far stronger legal case than if this case law were not in God's law-order. A lost animal is not supposed to remain indefinitely in another person's possession, especially after the person who lost it announces its absence publicly. "Thou shalt bring it unto thine own house, and it shall be with thee until thy brother seek after it."

D. Marks of Ownership and Reduced Search Costs

This case law makes it far more likely that lost property will be immediately returned to a known owner. Thus, obeying this law increases the economic return from marking property. This is an economic incentive to extend the principle of owner's rights. A person's legal claim to property is secured at a lower cost through a mark of ownership. When anything can be obtained at a lower price, more of it will be demanded than before. This is why marks of ownership are important factors in extending the free market social order. When more people own property and thereby secure the stream of income that assets provide, they will find it in their self-interest to defend the principle of owner's rights.

By marking property, the owner reduces future search costs, both his search for the animal and the finder's search for the owner. The mark also reduces search costs for a neighbor whose crops have been eaten or ruined by a wandering beast. He can then gain restitution from the owner (Ex. 22:5).[10] Branding also reduces search costs for the civil authorities if the animal should be stolen. By burning an identifying mark into an animal's flesh, or by attaching a tag to its ear or other flesh, the owner increases risks for a thief. This also decreases risks for those who might buy from the thief. The buyer is able to verify whether the seller possesses title to the mark and therefore title to the beast.

God's use of circumcision in the Old Testament era is an obvious parallel to the brand. So was the hole punched in the ear of a voluntary lifetime servant (Ex. 21:6). These were both marks of ownership. The New Testament practice of baptism leaves no visible mark, but it leaves a legal description in the records of a continuing third-

10. North, *Authority and Dominion*, ch. 44.

party institution, the church. Baptism is also a mark of God's primary ownership. The same is true of property registration generally. Titles, deeds, and other marks of legal ownership have developed over the centuries, thereby extending the dominion of mankind through the development of the institution of private property. *By identifying legal owners, a society increases the level of personal responsibility*. This, too, is a fundamental biblical goal.

E. Not a Case of State-Enforced Charity

The discoverer must sacrifice time and effort to see to it that the property is returned to its owner. This might be seen as a form of judicially mandated charity, one of the few examples of compulsory charity in the Bible. Compulsory charity, however, is a contradiction. Charity must always be legally voluntary. It is governed by the legal principle that the recipient has no judicially enforceable earthly entitlement to the gift. This is why the modern welfare state is careful to label its compulsory wealth-redistribution programs as *entitlements*. The creators of these programs want to avoid any suggestion of voluntarism, which implies that the donor has the right to refuse to make the gift. Thus, this case law is not related to charity. The owner has a legal claim on the property. He has an entitlement. The person who finds the lost property is expected to honor this legal claim, even though it costs him money or time to do so.

This law requires a form of wealth-redistribution. The person who discovers lost property owes it to the owner to return it or care for it. This is a positive injunction. Yet biblical civil law, as I have argued repeatedly, does not issue positive injunctions. It does not compel anyone to do good; it merely prohibits people from doing public evil. Thus, I conclude that *this law is not a civil law, but is rather a moral injunction*. There is no civil sanction attached to it, nor is there any general judicial principle of restitution that would enable the judges to determine a proper sanction. The civil government therefore has no role to play in the enforcement of this law.

The civil government can become involved if the person who owns the property discovers it in someone else's possession. The suspicion of theft immediately arises. This risk is an incentive for the discoverer to return it to its owner, in order to avoid future criminal prosecution for theft. But this is a separate issue. The case law in question should be seen as a moral responsibility placed on the individual directly by God, not as a civil statute.

In all likelihood, however, the individual who finds a wandering animal owned by no known person will report this to some authority. He does not want to be found in possession of another man's beast. To insure himself from a future lawsuit, he tells someone in authority, or at least local witnesses, that he has found a wandering animal. This shared information serves as a means of lowering the costs of finding lost animals. Because of the laws governing theft, this caretaker law increases the likelihood that the finder will expend extra effort to inform the authorities of his discovery. The local civil magistrate or Levite would then serve as a lost-and-found agency. Someone whose animal had wandered off would go to someone in authority and enquire regarding any report of lost animal of a particular description.

We can presume that the animal would not be too far from home. Even though this law of mandatory caretaking was not enforceable by a civil court, it was enforceable in God's court. God's court involves sanctions, positive and negative, in history. The covenant-keeper who found a lost animal would have felt moral pressure to take it to his home. He would then have had to take care of it. This was an expense that he might not have wanted. He would therefore have had another incentive to inform the authorities or in other ways get word into the community about the stray beast.

What about the output of the animal? The finder was entitled to shear the sheep if he cared for it. He could sell the wool or use it. There is no indication in this text or any other that his expense in caring for a lost animal could not be recovered by the productivity of the animal. If it ate his grass, if he had to hire extra help in caring for it, if he put it in a barn to shelter it, and no man claimed it, then he was entitled to use it. If anything happened to it while he was working it, he would have been responsible. It was not his property. It was, in this sense, on loan to him. He could not misuse it, but he could use it.

Whenever this law was honored in Israel, an animal could not have strayed far from its owner. Sooner rather than later, an Israelite would have done his duty and taken it home. The more faithful to God's law Israel was as a nation, the sooner that someone would have taken responsibility for this lost, wandering beast. The more righteous the society was, the less distance the animal could have wandered. Widespread personal righteousness in this case meant lower search costs for the owner. This was another example of the great respect for private property in the Mosaic law.

F. Treasure Hidden in a Field

This law seems to be contradictory to Jesus' parable of the kingdom of heaven: "Again, the kingdom of heaven is like unto treasure hid in a field; the which when a man hath found, he hideth, and for joy thereof goeth and selleth all that he hath, and buyeth that field" (Matt. 13:44). Why isn't Jesus' example a case of lost property? Why isn't the finder required to report it to the presumed owner, i.e., the owner of the field? Because the treasure had been deliberately hidden. The finder had the right to play along with the deception.[11]

Jesus was challenging Old Covenant Israel to cease hiding the treasure of salvation from the gentiles.[12] The kingdom of heaven is not supposed to be hidden; it is to be shared with all the world. But someone had taken the treasure and had hidden it, He said. This was similar to the action taken by the responsibility-aversive wicked servant who refused to multiply his master's resources that had been entrusted to him. This was another kingdom parable.

> Then he which had received the one talent came and said, Lord, I knew thee that thou art an hard man, reaping where thou hast not sown, and gathering where thou hast not strawed: And I was afraid, and went and hid thy talent in the earth: lo, there thou hast that is thine. His lord answered and said unto him, Thou wicked and slothful servant, thou knewest that I reap where I sowed not, and gather where I have not strawed: Thou oughtest therefore to have put my money to the exchangers, and then at my coming I should have received mine own with usury. Take therefore the talent from him, and give it unto him which hath ten talents. For unto every one that hath shall be given, and he shall have abundance: but from him that hath not shall be taken away even that which he hath. And cast ye the unprofitable servant into outer darkness: there shall be weeping and gnashing of teeth (Matt. 25:24–30).[13]

The person who discovers a hidden treasure is not under any obligation to inform the owner of the field of its existence (Matt. 13:44).[14] Someone had taken steps to hide the asset. The original owner had

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11. Gary North, *Priorities and Dominion: An Economic Commentary on Matthew*, 2nd ed. (Dallas, Georgia: Point Five Press, 2012), ch. 31.

12. Paul wrote: "For ye, brethren, became followers of the churches of God which in Judaea are in Christ Jesus: for ye also have suffered like things of your own countrymen, even as they have of the Jews: Who both killed the Lord Jesus, and their own prophets, and have persecuted us; and they please not God, and are contrary to all men: **Forbidding us to speak to the Gentiles that they might be saved**, to fill up their sins alway: for the wrath is come upon them to the uttermost" (I Thess. 2:14–16).

13. North, *Priorities and Dominion*, ch. 47.

14. *Ibid.*, ch. 31.

decided to invest the treasure by hiding it. This is not the best way to increase wealth except in times of warfare or widespread theft. It is better to put the asset to work. The hidden asset is not being used productively.

The finder takes a great risk by selling everything he owns to make a bid on the field. The field's owner, if he knows about the treasure, may dig it up and then sell the field—now far overpriced—to the finder. But if the field's owner does not know about the hidden treasure, the buyer is not under any moral obligation to tell him about it. The field's buyer is reclaiming the asset from the heirs of the original treasure-hider, who know nothing about the whereabouts of the treasure and who did not hide it. They have no legal claims on this property. They are not like the owner of lost property, who does have a legal claim. The treasure in the field is not marked. It is not the responsibility of the discoverer to seek out the heirs, who may be scattered across the face of the earth, depending on how long the treasure has been hidden. The person most likely to put the hidden treasure to productive use is the treasure-finder who is willing to sell all that he has to buy the field.

The Jews had hidden God's kingdom in Jesus' era. They were hoarding it. They were not taking it in its pure form to the gentiles. They had encrusted it with layers of man-made law, thereby hiding it. This was hampering the growth of the kingdom. This is why Jesus also said: "Therefore say I unto you, The kingdom of God shall be taken from you, and given to a nation bringing forth the fruits thereof" (Matt. 21:43). Jesus was telling His listeners that they had found the hidden treasure: the kingdom of heaven. It was time for them to commit everything they owned to the spread of the good news of redemption: to gentiles as well as to Jews. The Jews refused to admit that what they had done by way of legalism and nationalism had concealed the kingdom from gentiles. Thus, the kingdom was rightfully the property of the church, which stripped the message of redemption of its legalism and then shared it with the world. It was not that the kingdom had been lost; it had been deliberately hidden and kept out of plain sight. Thus, the law of lost property did not apply in the parable.

The economic principle governing hidden treasure is what W. H. Hutt called the theory of idle resources. Hidden treasure is not idle if it is the object of human decision-making. It is invested in a particular way. When resources are deliberately not being used to produce goods and services, this may be because of the owners' lack of information about how to maximize the value of the unused asset, i.e., to

make it worth more in production than it is sitting idle.[15] When an idle resource is idle because no one recognizes it as valuable, or because the owner has forgotten where it is hidden, then the least costly way to get it back into production is to allow a finder to buy it. This is an application of the Austrian school's theory of entrepreneurship: profit as the result of the decision of an entrepreneur who bears the economic uncertainty associated with production.[16] The entrepreneur believes that he possesses better knowledge regarding future consumer demand than his competitors do. He buys a productive good at a price that is lower than it would be if all producers recognized its highest-value future use. If his forecast is correct, and if he puts the underpriced asset to consumer-satisfying use, then he gains his reward: an above-average rate of return on his investment. If his forecast is incorrect, or if he misallocates the resource, then he reaps losses.

To maximize the spread of accurate information and the consumer benefits associated with this information, the free market social order allows entrepreneurs to buy fields containing "hidden treasure." These fields are in the form of scarce resources that are not priced as high as they would be if other entrepreneurs knew the truth: hidden treasures are buried here, i.e., there are benefits that consumers will be willing to pay for. These treasures are not lost resources; rather, they are forgotten or ignored resources that are not being put to their maximum consumer-satisfying uses. In short, accurate information regarding the future is not the equivalent of a lost sheep that has wandered off and will be missed by the owner. It is the equivalent of a treasure buried and therefore taken out of production by a previous owner, and then forgotten. There is no moral reason why someone who finds a way to serve the public better through putting this treasure back into production should be required to broadcast this information to anyone. But he must not steal it; he must buy the field in which it is hidden. He must bear the costs of gaining ownership.

Conclusion

The lost domesticated animal is a valuable asset. To preserve the principle of private ownership, God's law assigns responsibility to the

15. W. H. Hutt, *The Theory of Idle Resources: A Study in Definition*, 2nd ed. (Indianapolis: LibertyPress, 1977).

16. Israel M. Kirzner, *Competition and Entrepreneurship* (Chicago: University of Chicago Press, 1973; Kirzner, *Perception, Opportunity, and Profit: Studies in the Theory of Entrepreneurship* (Chicago: University of Chicago Press, 1979).

person who finds lost property. He is required by God to care for it until its owner arrives to claim it. Because of the laws against theft, it is likely that the finder will report his discovery to someone in authority. This increases the spread of knowledge. It also tends to create a lost-and-found office in society. The person who lost his property in Israel had two likely sources of information regarding his lost property: the elders in the gate and the local Levite.

This law was neither a seed law nor a land law. There is no more reason to assume that it no longer applies in the New Covenant than it would be to assume that the same principle of caretaking does not apply to lost children. The person who finds a lost beast is no more entitled to become its owner than he is entitled to become the lawful guardian of a lost child. In the case of a lost child, the judicial incentive to report the existence of the lost child is greater. Kidnapping is a capital crime (Ex. 21:16).[17] But the same interpretive principle holds true: *the finder is not allowed to become a keeper*. The finder has an obligation to care for the lost beast as he would to care for a lost child. He has an analogous obligation to report his discovery, though not an equally intense obligation, given the disparity of the civil penalties for theft vs. kidnapping.

This law created incentives for owners to brand their beasts. By marking them, the owner made it more likely that the beast would be returned to him by the finder. The brand made it less likely that a finder would be able to claim that the animal was his rather than the owner's. In other words, the brand reduced the likelihood of either a permanently lost animal or a stolen animal. With the owner's mark on the animal, the owner could claim his right of ownership.[18] This was why circumcision marked Israel. God's legal claim was on the male Israelite. The fact is, the image of God in man is God's universal claim of ownership, but the covenant mark in the Mosaic law made this ownership visible to the person so marked. God's unique claim of ownership was on an Israelite. This was the meaning of circumcision; it is also the meaning of baptism. No matter how far a "branded" covenant-keeper strays from both the protection and restraint of the institutional church, God's mark of baptism identifies him as owned by God.

17. North, *Authority and Dominion*, ch. 34.

18. For a child today, hand prints on a birth certificate provide even stronger evidence of original authority over the child.

53

NATURE'S ROOTS AND FRUITS

> *If a bird's nest chance to be before thee in the way in any tree, or on the ground, whether they be young ones, or eggs, and the dam sitting upon the young, or upon the eggs, thou shalt not take the dam with the young: But thou shalt in any wise let the dam go, and take the young to thee; that it may be well with thee, and that thou mayest prolong thy days.*
>
> DEUTERONOMY 22:6–7

The theocentric aspect of this law is the creation. God rules over nature because He created the universe. He establishes the human rules that are to govern man's governing of nature. He places boundaries around His property.

A. Preserving Nature's Organic Productivity

This is not a seed law or a land law. It is a cross-boundary law.[1] It applies to nature in general, not just to Canaan. God gave to mankind the responsibility of ruling over the creation (Gen. 1:26).[2] God recapitulated this covenant with Noah and his sons (Gen. 9:1–3).[3]

Because this is a covenant under God, there is hierarchy. The hierarchy of the dominion covenant is this: God > man > woman > minor children > nature. Because it is a covenant, there are sanctions attached. This law announces a personal blessing for obedience: long life. The blessing itself points to point five of the biblical covenant: continuity, i.e., greater time on earth in order to extend one's domin-

1. On the categories of the Mosaic law, see Appendix J.

2. Gary North, *Sovereignty and Dominion: An Economic Commentary on Genesis* (Dallas, Georgia: Point Five Press, 2012), ch. 3.

3. *Ibid.*, ch. 18.

ion over nature. The positive sanction, long life, is an aspect of inheritance: building up a capital base to leaves to one's children.

Man's dominion over nature extends God's grace to the creation. The implementation of this grace is governed by God's law. The principle undergirding this Mosaic case law is that *the productivity of nature must be preserved by man*. The individual who finds a mother bird is allowed to claim her offspring as his lawful possession, but he must set free the mother. The mother is an instrument of productivity. She has reached adulthood. She has survived nature's challenges to youth. Animals that were further up the food chain did not catch her. Also, she did not starve. Because this animal is a skilled survivor, she is worth more as a productive asset than the newborns are. Man can do what he wishes with the newborns, but he must let the adult go free to reproduce again. In this, we can see a pattern for man-directed ecology in general. Adult mothers of wild species that are valuable to man are to be allowed to continue to reproduce.

The setting of this case law is not organized agriculture. A man comes across a bird's nest. The bird has built it where it decided, not where man decided. The Hebrew word translated "by chance" refers to an encounter. It is frequently translated "befall." A man has come upon the nest. This discovery was unplanned by the man. The bird was operating under the laws of humanly unplanned nature. This was not a chicken farm.

This law secures life for the mother because of the presence of the offspring. A man may lawfully claim an isolated female bird for his own. If it is not immediately caring for its young, it is "fair game." But what about mammals? The principle of this law is that a female with offspring under her immediate care, and therefore dependent for survival on her care, must be set free. Modern hunting laws that protect female deer are extensions of the principle that mothers caring for their young are off-limits to hunters. Young mammals are different from young birds. They can wander off. So, the fact that a female is visibly alone is not proof that she has no young under her authority. She is therefore protected from hunters. But the hunting laws also protect the young; so, these laws are in violation of this case law. Biblically, the offspring are fair game.[4]

This law protects a productive female while she is caring for her

4. It is considered "unsporting" to shoot immature deer. The problem here is that civil laws should not be enacted which go beyond the meaning and intent of biblical law. The boundaries protecting young animals in the wild should not be civil.

young. Her productivity in bringing offspring into the world and caring for them must be honored. This case law protects her life. It does not do so for the sake of the existing offspring, which may be lawfully harvested by the discoverer. My conclusion is that it protects the mother for the sake of future offspring. A demonstrably productive asset in nature must be allowed to continue its productivity. This interpretation is consistent with the law of fruit-bearing trees during a siege: the invading army may eat the fruit of nearby trees, but not cut them down (Deut. 20:19).[5] Orchards planted by the enemy were treated as if they had grown on their own. They had not been planted by the invading Israelites; they were therefore to be left standing.

B. The Tragedy of the Commons

This law governs animals found in the wild. There is no comparable law governing domesticated animals. The owner of a farm is in charge of breeding his animals. He feeds them, shelters them, and cares for them directly. They are not survivors in the wild; they are survivors in a sheltered environment. In this setting, the owner is not under any restriction regarding mothers and offspring. He may lawfully kill the mother and eat her eggs. But will he? Probably not. After all, the mother is his property. She may not lay golden eggs, but she does lay consumable, marketable eggs. She is a capital asset that produces a stream of income. She is a proven producer. The owner probably will not kill her in her years of productivity.

Nevertheless, this female may be growing less fertile. The owner may decide that she is now fit for eating. After he collects her eggs, he is entitled to wring her neck. This is not an animal that survives in the competitive environment of nature. It is an owned resource. The owner has authority over it.

The differentiating characteristic is ownership. Animals found in the wild are unowned. In such cases, these animals may become victims of annihilation by non-owners who see them as free resources. *When men are in control of free resources, they tend to overconsume them*. They do not bear the costs of ownership, yet they can reap the benefits of ownership. The high benefit-cost ratio encourages them to consume the resource. After all, they are not able to collect an income stream from an animal which they encounter in a field. It is a "now or never" situation. They can now gain the benefits of owning the asset.

5. Chapter 49.

If they wait, they will be unlikely to appropriate this particular fruit of nature. Thus, there is an economic incentive to "overharvest" the resource. They will kill the mother and take the eggs.

This result is sometimes called the tragedy of the commons.[6] No one owns the wild. No one owns this particular family of animals. The costs of production are almost nonexistent to the harvester; the benefits of harvesting are high. So, he takes all of the resource. This leads to overuse of the asset: overgrazing, overpolluting, or over-whatever. *Ownership provides an economic disincentive against immediate consumption*. But ownership of a long-term capital asset does not exist in nature. Thus, unowned, ungoverned nature must be protected by civil law. Men, in their legal capacity as God's corporate agents over nature, must place legal restraints on the misuse of temporarily unowned nature.[7] This is for the benefit of nature and also for the benefit of men in the future, who will be able to harvest nature's bounty. Those animals that are under mankind's covenantal authority are to be protected against the otherwise rational economic decision by a non-owning individual to overconsume nature's resources.

Because this law authorizes the discoverer to harvest the offspring, it clearly recognizes man's legal authority over nature. The fruits of nature—in this case, the offspring—are fair game for man. Man is not to be kept completely out of unowned nature for the sake of nature. *Unowned nature is a challenge to man's mandated dominion over nature*. It testifies to the incomplete dominion of man in history.[8] Nature under the autonomous dominion of beasts is so repulsive to God that He allowed Canaanites to remain in the land until the Israelites could either exterminate them or drive them out. "I will not drive them out from before thee in one year; lest the land become desolate, and

6. Garrett Hardin, "The Tragedy of the Commons," *Science* (Dec. 13, 1968); reprinted in Garrett de Bell (ed.), *The Environmental Handbook* (New York: Ballentine, 1970). For a critique, see C. R. Batten, "The Tragedy of the Commons," *The Freeman* (Oct. 1970). Cf. North, *Sovereignty and Dominion*, ch. 31:B.

7. Nature is not to remain unowned. Nature should not be owned by the state. The biblical case for state ownership must be made in terms of the principle of hierarchical responsibility. The defender of state ownership must show from the Bible either that the state has been authorized by God to serve as His dominion agent or that inherent in the arrangement are conditions that mandate bureaucratic administration. The judicial issue is God's hierarchy of ownership, not some theory of nature's rights. Nature has no rights. The idea that nature has rights independent of man as God's dominion agent is pagan to the core. Nature has no rights, in the same sense that property has no rights. It is ironic that environmentalists who decry property rights also cry for nature's rights.

8. This includes the oceans. The problem with oceans is that they are unowned. They are part of the commons. The result is an overharvesting of some species.

the beast of the field multiply against thee" (Ex. 23:29). This is why the idea that a jungle is to be preserved for the jungle's sake is an anti-biblical idea. The man-killing insects of a jungle are to be treated by man with no more leniency than a plague-carrying mosquito is, unless there is some clear ecological benefit to mankind by sparing the killer.[9]

This law places restraints on the tragedy of the commons. Nature's independent productivity is to be preserved by civil law until such time as man can domesticate nature. Man subdues nature through private ownership. When land is privately owned, when animals are penned in, and when man provides a protective environment for the animals under his authority, then this law ceases to have any relevance. When the commons—commonly owned land or unowned land—disappears, so does the related tragedy of overconsumption. While it is incorrect to argue that "the only good rain forest is a dead rain forest," it is biblically correct to say that the best rain forest is a privately owned rain forest. (By the way, "rain forest" is a term that usually refers to a jungle, a far less compelling word rhetorically in public policy debates.) While a privately owned rain forest can become the victim of inappropriate ecological management, this is also true of a politically owned rain forest. But there is this difference: private owners have greater personal economic incentives to preserve the productivity of an asset, as determined by consumers' use of the asset, than a government's salaried managers have. Also, by decentralizing ownership, the free market social order increases the likelihood that an ecological mistake will not be imposed on all of nature at the same time, which is not the case when a centralized civil government exercises direct control over the property. In short, fewer commons mean fewer and less wasteful tragedies.

Conclusion

The fruits of nature belong to man. This biblical principle undergirds this case law: the offspring can lawfully be harvested by the finder. But the roots of presently unowned nature belong to God. His delegated

9. If burning down a forest or a jungle creates an environment in which mosquitoes multiply, and if society is unwilling or too poor to allow the use of chemicals such as DDT, then leaving the forest or jungle standing may be the best ecological policy. The mosquito historically has been man's greatest enemy in nature. Man's seeming victory over malaria-carrying mosquitoes by the mid-1960s has been rolled back by laws against DDT. Gordon Harrison, *Mosquitoes, Malaria and Man: A History of the Hostilities Since 1880* (New York: Dutton, 1978).

intermediary is nature itself until men establish direct ownership over tracts of nature and begin to manage them. Until then, God exercises His control over the mother hen through the operations of nature. God demonstrates His ownership by placing legal restrictions on the use of nature's capital assets. This is why the mother hen must be set free to breed another day. Man is not to overharvest unowned, unmanaged nature. Because man is not providing the scarce means of sustaining life for nature's wild animals, he is not to be given free reign over both the roots and fruits of nature. Unless he extends a full-time system of management over nature, including the care and feeding of mother hens and their species equivalents, he is not allowed to take both the mother and her offspring in the same harvesting operation. God has placed another "no trespassing" sign around His property.

It is obvious why the state cannot easily enforce this law of the unplanned encounter: bureaucrats possess insufficient information regarding any infractions. The state's negative sanctions cannot easily be applied to those who break this law. Thus, God has attached a positive sanction to this law, one which applies to the individual. He who honors this law will receive long life. The individual reaps this reward because he is the primary locus of sovereignty for this law's enforcement. He has exclusive information regarding his encounter; he therefore is the recipient of the blessing of obedience.

This is neither a seed law nor a land law. It is a cross-boundary law. In fact, it is precisely because nature has no internal ownership boundaries that this law must be enforced: primarily by the individual; secondarily by state anti-poaching laws.

54

THE ROOFTOP RAILING LAW

> *When thou buildest a new house, then thou shalt make a battlement for thy roof, that thou bring not blood upon thine house, if any man fall from thence.*
>
> DEUTERONOMY 22:8

The theocentric reference point of this law is man as God's image: the doctrine of representation, which is point two of the biblical covenant.[1] Why representation? Because the language of blood appears in the text. Man's blood must not be deliberately shed, because man is made in God's image. When a person does something which significantly threatens the lives of others, he is to be held legally liable (Ex. 21:18–19),[2] except in wartime or crime prevention by an officer of the law. By extension, if he builds a structure which significantly threatens the life of another person in the normal course of affairs, he is to be held legally liable for any injury suffered as a consequence. In this case, the text is concerned with the death of the victim. The language of blood points back to the law prohibiting murder in Genesis 9. "And surely your blood of your lives will I require; at the hand of every beast will I require it, and at the hand of man; at the hand of every man's brother will I require the life of man. Whoso sheddeth man's blood, by man shall his blood be shed: for in the image of God made he man" (Gen. 9:5–6).

1. Ray R. Sutton, *That You May Prosper: Dominion By Covenant*, 2nd ed. (Tyler, Texas: Institute for Christian Economics, [1987] 1992), ch. 2. Gary North, *Unconditional Surrender: God's Program for Victory*, 5th ed. (Powder Springs, Georgia: American Vision, [1980] 2010), ch. 2.

2. Gary North, *Authority and Dominion: An Economic Commentary of Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 3, *Tools of Dominion* (1990), ch. 35.

A. New Homes

The language of blood places this case law under the general category of murder. Thus, this law is not strictly a land law, yet is it also not strictly a cross-boundary law, as we shall see.[3] It is unique.

This law has to do with a boundary around a home's roof. This boundary protects human life. A death caused by the absence of a railing around a roof is not accidental manslaughter, as it would have been under the law of the cities of refuge (Num. 35:9–29).[4] It was murder. The civil penalty was the execution of the head of the household: eye for eye. The mere absence of a restraining device would automatically have condemned the householder judicially. There was no legally valid excuse. The risk of building a new house without a roof railing was high.

1. The Inheritance Principle

The context of the law was new construction. This law did not apply to existing houses. This law governed homes that were built in Israel after the conquest. The inheritance associated with the conquest of Canaan was not under this law. The original inheritor and his heirs were not burdened by the costs of constructing a railing on a roof. The person who bought a home that had been built by a Canaanite was not required to build a protective railing. *The principle of inheritance from Canaan was more important than the principle of safe housing*. When the Israelites took Canaan, the Canaanites left their houses standing. Their houses became part of Israel's lawful inheritance. An Israelite who was too poor to afford to build a railing on his roof was not to be prohibited from claiming ownership of a house with an unprotected roof. Those who ventured onto the roof of such a house did so at their own risk. The owner was not to be forced to sell the house just because he could not afford to build a railing on the roof. *This law balances safety with economics*. If a man has the wealth to pay for building a new home, then he is not a poor man. He has capital. He is exchanging one form of capital for another. In such cases, this law announces, the builder must go to the extra expense of building a railing on his roof. The additional cost—the marginal cost—of building a railing is small in comparison to the total cost of building the house. For a little more money, the owner secures an

3. On land laws and cross-boundary laws, see Appendix J.

4. Gary North, *Sanctions and Dominion: An Economic Commentary on Numbers*, 2nd ed. (Dallas, Georgia: Point Five Press, [1997] 2012), ch. 21.

added measure of safety for his family and guests. As a man of means, he owes this to them. It is not a great added expense.

What about a buyer of an existing home that has no roof railing? He can afford to build a new home or buy an existing home. He chooses to buy an existing home. The text applies to a newly built house. But why shouldn't the law apply to him? One reason might be that the added marginal expense of adding a railing reduces the profit from selling the house. The law would force the seller to pay for it, thereby reducing the profit from the sale, or else force the buyer to pay,[5] thereby reducing the market for used homes. In the case of the conquest of Canaan, the inheriting owner or his heirs would have faced reduced demand—lower value—for the sale of an asset which they inherited when the first owner participated in the conquest of Canaan. That is, such a legal requirement would have reduced the net worth of the original Israelite owner or his heirs. Mosaic law did not impose such a confiscation of inherited wealth on the owner or his heirs. This law indicates how highly the principle of inheritance was regarded by the Mosaic law.

This law does impose costs on new home construction. A new home was not part of the original inheritance of Canaan. It was part of the fruits of life in the land. For the sake of protecting the life of man, this law mandated that new-home builders pay attention to the risk of a cultural phenomenon: social gatherings on roofs. The law warned the man paying to have a home built: if you do not go to the added expense of building a protective railing around the roof, and someone falls from the roof and dies, this law designates the head of the household as a murderer. The risk of having such an event take place in one's home would have to be borne by the home owner. This added cost could be avoided by putting up a railing. The new-home owner had to make his decision in terms of costs either way.

What if the home's builder decides to sell the house immediately upon its completion? This raises the question of the transfer of legal liability. If the next buyer can escape the liability because he did not personally build the house, this would subsidize the construction of homes by professional home builders who have no intention of ever occupying them. This would place a competitive disadvantage on the individual who builds his own home or who pays to have it built. The professional contractor who builds a house before he has a contract from a buyer could build it less expensively. The buyer would be buy-

5. This applies in cases where the supply is inelastic, i.e., not price sensitive.

ing a home that he neither had built himself nor had agreed to have built for him. This would subsidize the building of less expensive, more risky homes. This would increase the likelihood of accidents. So, the buyer of a newly constructed house would become legally liable. He would have to pay to install a railing in order to remove this liability.

2. A Flat Roof

The flat roof of the ancient Near East and the Mediterranean was a place where people gathered for celebrations. It was not the tapered roof of Northern Europe, which focuses the weight of snow in such a way that it slides off the roof rather than breaking through the roof. The tapered roof has the same effect on people as it has on snow: it increases the likelihood that people will slide off the roof. People do not gather together on a tapered roof to hold parties. Climbing up a tapered roof is not part of the average person's normal daily activities. Anyone who goes onto a tapered roof does so at his own risk. He may fall off the roof accidentally, in the sense that he does not plan to fall off the roof, but knows that he may fall if he fails to take normal precautions, such as wearing shoes with non-slip soles. He may fall even with such precautions. He knows that he is doing something abnormal. He does not fall off a tapered roof accidentally in the sense of a careless act that takes place in the normal course of events.

A house designer who puts a safety railing around a tapered roof is adding to the risk of dwelling inside. Snow would be retained by such a barrier. Instead of sliding off the roof, snow may crash through it, endangering those inside the building. Thus, this safety law governing Near Eastern roofs would be a dangerous law to enforce in, say, Scandinavia. A literal application of this law in Scandinavia would not decrease risk; it would increase risk. The biblical goal of this law is to increase personal safety. If this law were applied literally without respect for geography, it would sometimes produce the opposite result: a decrease in safety.

This leads us to a principle of interpretation: *we must search for the intent of a law*. It is not sufficient merely to obey it. To obey a law unquestioningly is to risk misapplying it. A biblical law must be obeyed until such time as skilled interpreters find a biblical reason to apply it in some other way for the sake of the law's intent. *The spirit of the law must govern the letter of the law*. This case law illustrates this hermeneutical principle better than most.

B. Self-Government Under Biblical Law

This law does not mandate the creation of a civil government bureaucracy that enforces home safety laws. It announces that the person who builds a new home must go to the expense of building a protective railing around the roof. Any owner of a newly constructed house who fails to do this faces the ultimate penalty: execution. If someone falls from a roof and is killed, the dwelling's owner must die. *This enforcement of this law rests on self-government, not bureaucratic government*. It relies on the self-interested decisions of home builders and new home buyers to defend themselves against the negative civil sanctions associated with harm. There is no indication from this law that the state is authorized to create a regulatory agency that writes safety codes that apply to home builders before they can legally offer their homes for sale. On the contrary, this law places decision-making authority in the hands of the home builder or new home buyer. It is his decision as to how much legal risk he is willing to bear. If he wishes to avoid legal risk but also avoid the expense of building a railing, he will have to keep people off his roof. He will lose the square footage available for entertaining. He decides.

There is a role for civil government: the enforcement of penalties after the event takes place. There is another role: announcing in advance that this penalty will be imposed. A court must convict; then the state must apply sanctions after the witnesses have testified and the court has reached a decision. The state legitimately declares in advance safety standards and the penalty for violating them, but it does not compel anyone to abide by them. We are dealing here with a discrete event: one roof, one victim of a fall. We are not dealing with a phenomenon such as pollution, in which each polluter contributes a nearly immeasurable quantity of pollution, but polluters as a group create an unpleasant or dangerous environment.

The modern world is bureaucratic as no previous society ever has been, with the possible exception of ancient Egypt.[6] The government regulatory agency is a ubiquitous feature of modern political and economic life. Administrative law has steadily replaced legislative law. This constitutes a legal revolution that is undermining the Western legal tradition.[7] If this trend is not reversed, probably by some disaster

6. "Max Weber on Bureaucratization" (1909), in J. P. Meyer, *Max Weber and German Politics: A Study in Political Sociology* (London: Faber & Faber, [1943] 1956), p. 127.

7. Harold J. Berman, *Law and Revolution: The Formation of the Western Legal Tradition* (Cambridge, Massachusetts: Harvard University Press, 1983), pp. 34–41.

that bankrupts most civil governments, it will put an end to freedom. The top-down bureaucratic social order—Satan's model, given his lack of omniscience and his need for tight control over rebellious subordinates—will replace the bottom-up appeals court system of biblical law (Ex. 18).[8] The centralization of economic life will continue.

If God still brings negative sanctions in history against rebellious societies, then we can expect a great reversal, either through a religious transformation that steadily produces decentralization, or else through an unexpected cataclysmic social breakdown. The state will see its regulatory powers removed or drastically shrunk. The centralizing tendencies of political power will eventually be thwarted by the market or by the voters, though more probably the market.

C. The Price of Perfect Safety

A modern application of this law would impose personal liability on someone who places an abandoned refrigerator with a lock-latch in the alley behind his home without first removing the door or the latch. A child might play hide and seek by climbing into the refrigerator and shutting the door. He would suffocate to death. Such stories were familiar throughout the 1940s and 1950s. Courts did not always impose harsh penalties on the owners.

Had the authorities wanted to reduce the number of accidental deaths by suffocation of small children, they would have passed a law that mandated the execution of the owner of any discarded refrigerator that still had pins in its hinges. A discarded refrigerator with its hinge pins still installed would have been the judicial equivalent of an uncovered pit (Ex. 21:22–25).[9] But politicians would not have voted for anything so drastic as execution for death-producing liability. This would have been too risky politically. Instead, they passed laws against the manufacture of lock-latch refrigerators. The sale of lock-latch refrigerators was banned in 1958 in the United States. Doors that can be pushed open from the inside were made mandatory for producers of refrigerators.

Such laws are passed primarily because judges have refused to honor the principle of holding owners personally responsible for "roofs without railings" or "uncovered pits." In contrast, the Mosaic law did not require the civil government to impose fines on people who dug pits and then failed to cover them, nor did it mandate roof

8. North, *Authority and Dominion*, ch. 19.
9. North, *Authority and Dominion*, ch. 38.

inspectors. It did not create an army of administrative law enforcers. Instead, it assigned individual responsibility to owners of dangerous property. The civil government let men's *fear of their legal liability* serve as their incentive to make their property safer.

1. Economic Effects of Legislation

There are economic effects of any legislation that assesses economic penalties before an accident occurs. These effects are seldom taken seriously by legislators or by the special-interest groups that lobby for such legislation. In the case of lock-latch refrigerators, the original product had definite advantages. When the door was closed, it audibly snapped shut. The new no-lock doors sometimes fail to close tightly, but users are not always alerted when this happens because of the absence of the old snap sound. These doors are less efficient than older doors in this respect. Unlatched doors are more easily left open by children, who find them more difficult to close than doors of the older design, which snapped shut easily. As a result, food rots from time to time, or at least cold air escapes, and these costs are borne by the owner.

It seems certain that a few lives are saved each year by this legislation, but there never were hundreds of cases of smothered children in any year. A case was a newspaper-worthy occasional event. Millions of refrigerator owners are today subjected to the statistical risk of occasionally leaving a door open and rotting a week's food. Predictably, this cost is more difficult to bear for lower-income families, since expenses for food account for a higher proportion of their household budgets.

It may seem callous to compare the cost of spoiled food, no matter how much food gets spoiled, with the lives of children, no matter how few die of suffocation, but there are always inescapable costs with every desirable benefit. *Legislation creates benefits; therefore, in a cursed, scarcity-bound world, it necessarily imposes costs*. "Who benefits? How much? Who pays? How much?" These questions should always be asked before any piece of legislation is voted on. Guido Calabresi summarizes the range of decisions available to voters, legislators, and judges in deciding who should be made financially responsible for accidents: "The question of who should bear the costs of a particular accident, or of all accidents, is to be decided on the basis of the goals we wish accident law to accomplish." In short, the decision is politically open-ended.

> Thus it is a policy question whether costs should be (1) borne by particular victims; (2) paid on a one-to-one basis by those who injure a particular

> victim; (3) borne by those broad categories of people who are likely to be victims; (4) paid by those broad categories of people who are likely to be injurers; (5) paid by those who in some way violate our moral codes (in some sense are at fault) according to the degree of their wrongdoing, whether or not they are involved in accidents; (6) paid by those who are in some actuarial sense most likely to violate our moral codes; (7) paid from the general coffers of the state by particular industry groups in accordance with criteria (such as wealth) that may be totally unrelated to accident involvement; (8) paid by some combination of these methods.[10]

Humanism offers no simple moral, legal, or economic rule book which governs the state's decision to impose legal liability: "... in considering the bases of accident law, there are virtually no limits on how we can allocate or divide the costs of accidents."[11]

2. Utopian Legislation

When society adopts a utopian legal code which proclaims "better millions of extra dollars spent by consumers on a safer product design than just one child dead from an accident," it thereby places an impossibly expensive burden on society—the expense of seeking an impossible goal, *risk-free existence*.[12] Besides, legislators honor the principle of "better millions of dollars than just one..." only when it is cost-effective for them as politicians, that is, only when adversely affected voters will not be numerous enough, or not sufficiently well organized, to threaten them at the next election. For example, far more children are killed yearly in home fires than ever died in abandoned refrigerators. Many lives could be saved by legislating *and continually enforcing* the installation of smoke detectors in every home. Legislators could also require fire escape drills twice a year, with penalties on parents for violating this law. Voters today refuse to accept the level of interference in their lives by the state that the enforcement of such a fire safety law would require. So, legislators in this case ignore the principle of "better millions of dollars than just one..." They honor it only when comparatively few lives are threatened (e.g., asphyxiated children in abandoned refrigerators), and only a few companies need be monitored (e.g., appliance manufacturers).

A similar analysis can be made of speed limits on highways. There

10. Guido Calabresi, *The Costs of Accidents: A Legal and Economic Analysis* (New Haven, Connecticut: Yale University Press, 1970), p. 22.

11. *Ibid.*, p. 23.

12. Mary Douglas and Aaron Wildavsky, *Risk and Culture: An Essay on the Selection of Technological and Environmental Dangers* (Berkeley: University of California Press, 1982).

is no doubt that highway deaths could be reduced drastically if legislators would pass a maximum speed law of 25 miles (40 kilometers) per hour and then allocate large sums of money each year to enforce the law. The same could also be said if they would establish the death penalty for any drunk driver who kills another person in an auto accident. But the public seems unwilling to tolerate such legislation.

Conclusion

The law of the roof railing applied only to houses constructed after the conquest. The law of original inheritance was superior in Mosaic Israel to the safety law of the roof. The inheritor of a home built by a Canaanite was not under the civil sanctions of this law. He who went onto a flat roof built by a Canaanite did so at his own risk. If there was no railing, he had to be extra careful. This transferred legal liability to the guests. This was a consequence of the Mosaic law's defense of original inheritance. The conquest of Canaan was Israel's original inheritance, and it was defended by law.

The railing law transferred legal liability to the owners of post-Canaanite homes. The original owner of such a home had to consider the risk of hosting a party on his roof. If he failed to build a railing, he would lose his life in the case of a fatal fall by another person. This law therefore provided an incentive to owners to have documentation regarding original ownership. If the owner could not prove that his home had been built before the conquest, he became legally liable. A detailed record-keeping system was not mandated by this law, but it was surely encouraged.

This law was not intended to create an administrative bureaucracy of building inspectors. It was not a system of government licensing. It transferred legal liability to owners. In this sense, it reinforced the authority of the court system at the expense of the regulatory administrative law system. This indicates the presence in Mosaic legal order of an impulse hostile to administrative law.

This law may make no sense in a different environment, such as tapered roofs or thatched roofs. It applies only to a society that has flat roofs. This law teaches us that we must consider the judicial and moral principles undergirding a particular law. In this case, the primary principle was the inviolability of Israel's original inheritance; the secondary principle was cost-effective safety in a high-risk environment. The primary principle disappeared with the disappearance of the original housing. The secondary principle remains.

This was a unique law: partially a land law—original inheritance—and partially a cross-boundary law. Once the original housing wore out, it remained a cross-boundary law, but of a peculiar kind: one which could not be applied literally in every weather environment and still maintain its goal, i.e., personal safety.

55

LAWS PROHIBITING MIXTURES

> *Thou shalt not sow thy vineyard with divers seeds: lest the fruit of thy seed which thou hast sown, and the fruit of thy vineyard, be defiled. Thou shalt not plow with an ox and an ass together. Thou shalt not wear a garment of divers sorts, as of woollen and linen together.*
>
> DEUTERONOMY 22:9–11

The theocentric principle here is God's holiness: ethical boundaries.[1] God separates Himself from evil.

A. Boundaries and Holiness

The land of Israel was holy, i.e., sanctified. This is a typical explanation for laws of separation.[2]

The first prohibition was a law governing ritual pollution: defilement. What was the basis of this defilement? The text does not say. There is no doubt that the theological issue is holiness: boundaries.

The law of the plowing team and the law of mixed clothing seem to be in some way related to the first law. They are laws of separation: boundaries. Separation had something to do with ritual pollution, but what? Why was a field of mixed seeds evil? What did this symbolize? Israel's separation from Canaan? Israel's separation from the nations around her? Or one tribe's separation from another?

I have already analyzed the parallel verse in Leviticus: "Ye shall keep my statutes. Thou shalt not let thy cattle gender with a diverse kind: thou shalt not sow thy field with mingled seed; neither shall a

1. Gary North, *Boundaries and Dominion: An Economic Commentary on Leviticus*, 2nd ed. (Dallas, Georgia: Point Five Press, [1994] 2012).

2. Samson Raphael Hirsch, *The Pentateuch*, 5 vols. (Gateshead, London: Judaica, [1867?] 1989), V, p. 438.

garment mingled of linen and woolen come upon thee" (Lev. 19:19). I have decided to reprint portions of that chapter in this volume, since some readers will not have a copy of my Leviticus commentary.[3]

The theocentric meaning of this passage is the meaning of the entire Book of Leviticus: *God's boundaries must be respected*. This case law established three boundaries, each referring to a specific economic activity: *animal husbandry, agriculture*, and *textiles*. Except for the products of mining and metalworking, these were the primary categories of economic goods in the ancient world. Leviticus 19:19 established rules for all three industries.

That world is long gone. Beginning no later than the fifteenth century, A.D., and accelerating rapidly in the late eighteenth century, a series of improvements in all three industries transformed the traditional economy of Europe. The modern capitalist system, with its emphasis on private ownership, the specialization of production, and the division of labor, steadily replaced the older medieval world of the common fields. This comprehensive economic transformation was accompanied by the violation of at least the first two of the statutes of Leviticus 19:19, and seemingly all three.

The question I need to answer is this: Was this law annulled by the New Covenant, or was the Agricultural/Industrial Revolution illegitimate biblically? I argue that the law was annulled.[4]

This raises the question of biblical interpretation: hermeneutics. I cover this in the next section.

B. Hermeneutics

A hermeneutic[5] is the principle of interpretation. My theonomic hermeneutic enables me to do three things that every system of biblical hermeneutics should do: (1) identify the primary function of an Old Covenant law, (2) discover whether it is universal in a redemptive (healing) sense, or whether (3) it was conditioned by its redemptive-historical context (i.e., annulled by the New Covenant). In short: What did the law mean, how did it apply inside and outside Mosaic Israel, and how should it apply today? This exegetical task is not always easy, but it is mandatory. It is a task that has been ignored or denied by the vast majority of Christian theologians for almost two millennia.

3. North, *Boundaries and Dominion*, ch. 17.

4. An earlier version of this chapter appears in *Theonomy: An Informed Response*, ed. Gary North (Tyler, Texas: Institute for Christian Economics, 1991), ch. 10.

5. The singular can also be "hermeneutics."

The question here is the hermeneutical problem of identifying covenantal continuity and covenantal discontinuity. First, in questions of covenantal continuity, we need to ask: What is the underlying ethical principle? God does not change ethically. The moral law is still binding, but its application may not be. Second, this raises the question of covenantal discontinuity. What has changed as a result of the New Testament era's fulfillment of Old Covenant prophecy and the inauguration of the New Covenant? A continuity—prophetic-judicial fulfillment—has in some cases produced a judicial discontinuity: the annulment of a case law's application.

I begin any investigation of any suspected judicial discontinuity with the following questions. First, is the case law related to the priesthood, which has changed (Heb. 7:11–12)? Second, is it related to the sacraments, which have changed? Third, is it related to the jubilee land laws (e.g., inheritance), which Christ announced that He had fulfilled (Luke 4:18–21)?[6] Fourth, is it related to the tribes (e.g., the seed laws),[7] which Christ fulfilled in His office as Shiloh, the promised Seed (Gal. 3:16)? Fifth, is it related to the "middle wall of partition" between Jew and gentile, which Jesus Christ's gospel has broken down (Gal. 3:28; Eph. 2:14–20)?[8] These five principles prove fruitful in analyzing Leviticus 19:19 and Deuteronomy 22:9–11.[9]

Let us consider another question: Has a change in the New Covenant's priesthood (Heb. 7) also been accompanied by a change in the laws governing the family covenant? I can think of one. The church from the beginning has denied the legality of polygamy, even though there is no explicit rejection of polygamy in the New Testament except for church officers: husbands of one wife (I Tim. 3:2, 12).[10] The

6. Gary North, *Priorities and Dominion: An Economic Commentary on Matthew*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 6.

7. On seed laws, see Appendix J.

8. This application is especially important in dealing with Rushdoony's theory of "hybridization." See North, *Boundaries and Dominion*, Appendix F: "Rushdoony on 'Hybridization': From Genetic Separation to Racial Separation."

9. There are several other hermeneutical questions that we can ask that relate to covenantal discontinuity. Sixth, is it an aspect of the weakness of the Israelites, which Christ's ministry has overcome, thereby intensifying the rigors of an Old Covenant law (Matt. 5:21–48)? Seventh, is it an aspect of the Old Covenant's cursed six day-one day work week rather than the one day-six day pattern of the New Covenant's now-redeemed week (Heb. 4:1–11)? Eighth, is it part of legal order of the once ritually polluted earth, which has now been cleansed by Christ (Acts 10; I Cor. 8)?

10. There is a valid theological reason for the rejection of polygamy, but it is rarely discussed: Jesus' extension of the right of unilateral divorce to wives (Mark 10:2–12). Gary North, *Hierarchy and Dominion: An Economic Commentary on First Timothy*, 2nd ed. (Dallas, Georgia: Point Five Press, [2001] 2012), ch. 3, Appendix A.

church has never been clear on the exegetical reason for abandoning polygamy. Christians are hard-pressed to defend the change biblically. They invoke common sense or church tradition. There is a biblical reason for the change, but it is indirect, and I may be the only person who has discovered it. The reason for the change is Christ's change in the divorce law. A woman today can lawfully divorce her husband for reasons other than adultery (Mark 10:12). In the Mosaic law, only the husband could lawfully do this (Deut. 24:1). In the New Covenant, neither the divorcing wife nor the divorcing husband may remarry after a no-fault divorce. To marry such a person is to commit adultery (Mark 10:12). Because of the New Testament's principle of gender equality under ecclesiastical law—an equality based on baptism of males and females—a husband may not lawfully have more than one wife. If he did, this would make no-fault divorce far less of a sexual burden for a husband.[11]

Did other changes in the family accompany the New Covenant's change in the priesthood? Specifically, have changes in inheritance taken place? Have these changes resulted in the annulment of the jubilee land laws of the Mosaic economy?[12] Finally, has an annulment of the jubilee land laws annulled the laws of tribal administration?

C. Case Laws and Underlying Principles

Laws governing agriculture, plowing, and textile production had to be taken very seriously under the Mosaic covenant. The expositor's initial presumption should be that these three laws constitute a judicial unit. If they are a unit, there has to be some underlying judicial principle common to all three. All three prohibitions deal with mixing. The first question we need to ask is the crucial one: What was the covenantal meaning of these laws? The second question is: What was their economic effect?

I argue here that the fundamental judicial principle undergirding the passage is the requirement of separation. Two kinds of separation were involved: tribal and covenantal. The first two clauses were agricultural applications of the mandatory *segregation of the tribes* inside Israel until a unique prophesied *Seed* would appear in history: the Messiah. We know who the Seed is: Jesus Christ. Paul wrote: "Now unto Abraham and his seed were the promises made. He saith not, And to seeds, as of many; but as of one, and to thy seed, which is Christ" (Gal. 3:16). The

11. North, *Hierarchy and Dominion*, Appendix A.
12. On land laws, see Appendix J.

context of Paul's discussion is *inheritance*. Inheritance is by promise, he said. The Mosaic law applied "till the seed should come to whom the promise was made" (Gal. 3:18). Two-thirds of Leviticus 19:19 relates to the inheritance laws of national Israel, as we shall see. When the Levitical land inheritance laws (Lev. 25) ended with the establishment of a new priesthood, so did the authority of Leviticus 19:19.

The final clause of both Leviticus 19:19 and Deuteronomy 22:11 deals with prohibited clothing. This prohibition related not to separation among the tribes of Israel—separation within a covenant—but rather the separation of national Israel from other nations. The principle undergirding second form of separation—clothing—is more familiar to us: *covenantal separation*.

D. Boundary of Blood: Seed and Land

The preservation of Israel's unique covenantal status was required by the Mosaic law. The physical manifestation of this separation was circumcision. A boundary of blood was imposed on the male organ of reproduction. It was a sign that covenantal life is not obtained by either physical birth or through one's male heirs. Rushdoony wrote about the meaning of circumcision as a denial of faith in man's ability to reproduce himself billogically. "Circumcision witnesses to the fact that man's hope is not in generation but in regeneration. . . ."[13] To escape Adam's legal status as a covenant-breaker, a man must re-covenant with God, a human response made possible by God's absolutely sovereign act of regeneration. The mark of this covenant in ancient Israel was circumcision. Ultimately, this separation was *confessional*. It involved an affirmation of the sovereignty of Israel's God. This was a different kind of boundary from those that divided the tribes, for the tribes were united confessionally: "Hear, O Israel: The LORD our God is one LORD: And thou shalt love the LORD thy God with all thine heart, and with all thy soul, and with all thy might" (Deut. 6:4–5).[14] The nation of Israel was separated from non-covenanted nations by geographical boundaries, but most of all, by covenantal boundaries.

Tribal and family units separated the covenant people within Israel. This separation was always to be geographical, usually familial,[15]

13. R. J. Rushdoony, *The Institutes of Biblical Law* (Nutley, New Jersey: Craig Press, 1973), p. 43.

14. Chapter 15.

15. There could be inter-tribal marriages. Daughters received dowries rather than landed inheritance. Dowries could cross tribal boundaries.

but never confessional. Again, every tribe confessed the same confession (Deut. 6:4). They were divided tribally because they would have *different heirs*. Only one tribe would bring forth the promised Seed. Tribal separation was therefore based on differences in prophetic inheritance.

Israel's tribal divisions had political implications. They guaranteed localism. This *localism of tribal inheritance* was the judicial complement of the *unity of national covenantal confession*. Tribal boundaries were part of an overall structure of covenantal unity.

Family membership and rural land ownership in Israel were tied together by the laws of inheritance. A rural Israelite—and most Israelites were rural[16]—was the heir of a specific plot of ground because of his family membership. There was no rural landed inheritance apart from family membership. Unlike the laws of ancient Greece, Mosaic law allowed a daughter to inherit the family's land if there was no son. But there was a condition: she had to marry within the tribal unit (Num. 36:8). The landed inheritance could not lawfully move from one tribe to another (Num. 36:9).[17] A man's primary inheritance in Israel was his legal status (freemanship). He had the right to serve in God's holy army. He also inherited rural land (Lev. 25:10) or, if he was a Levite, land in Levitical cities (Lev. 25:32–33). The Promised Land was tied to name. The land of Israel was God's; His name was on it. The family's land was tied to the family's name.[18] Jacob had promised Judah that his blood line would rule until the promised heir (Shiloh) should come (Gen. 49:10). Thus, the integrity of each of the seed lines in Israel—family by family, tribe by tribe—was maintained by the Mosaic law until this promise was fulfilled. The mandatory separation among the tribes was symbolized by the prohibition against mixing seeds. The prohibition applied to the mixing of seeds in one field (Lev. 19:19). The field did not represent the whole world under the Mosaic covenant; *the field represented the Promised Land*. The husbandman or farmer had to create boundaries between his specialized breeds and between his crops.

So closely were seed and land connected in the Mosaic law that the foreign eunuch, having no possibility of seed, was not allowed to

16. This is not to say that God intended them to remain rural. On the contrary, the covenantal blessing of God in the form of population growth was to move most Israelites into the cities as time went on. See *Boundaries and Dominion*, ch. 24:F.

17. The exception was when rural land that had been pledged to a priest went to him in the jubilee year if the pledge was violated (Lev. 27:20–21). *Ibid.*, ch. 36.

18. *Ibid.*, ch. 17:G:2.

become a citizen in Israel (Deut. 23:1). (The New Testament's system of adoption has annulled this law: Acts 8:26–38.)

Leviticus 19:19 is part of the Mosaic covenant's laws governing the preservation of the family's seed (name) during a particular period of history. It was an aspect of inheritance: the necessary preservation of genetic Israel. The preservation of the separate seeds of Israel's families was basic to the preservation of the nation's legal status as a set-apart, separated, *holy* covenantal entity. This principle of separation applied to domesticated animals, crops, and clothing.

E. Covenantal Separation

Let us now consider the law prohibiting the linking an ox and a donkey in plowing (Deut. 22:10). In Leviticus 19:19, the prohibition was against the mixing of breeds in order to develop specialized breeds. This was a seed law: there was a possibility of interbreeding. Such was not the case in the law against joint plowing.

The ox and the donkey work differently. They are not beasts with the same strengths and habits. To use them in a joint plowing effort is to reduce the productivity of both. Neither can achieve its proper calling before God if they are linked by a yoke in the same work effort. The yoke makes each of them a poorer servant. This prohibition was not a seed law; it was a covenantal law. Paul wrote: "Be ye not unequally yoked together with unbelievers: for what fellowship hath righteousness with unrighteousness? and what communion hath light with darkness? And what concord hath Christ with Belial? or what part hath he that believeth with an infidel? And what agreement hath the temple of God with idols? for ye are the temple of the living God; as God hath said, I will dwell in them, and walk in them; and I will be their God, and they shall be my people. Wherefore come out from among them, and be ye separate, saith the Lord, and touch not the unclean thing; and I will receive you, And will be a Father unto you, and ye shall be my sons and daughters, saith the Lord Almighty" (II Cor. 6:14–18). The law against joint plowing is a law against putting covenanted people with noncovenanted people in the same covenantal institution. The issue here is theological confession. *A common theological confession is the biblical yoke*. Those who refuse to take a covenantal oath are not to be joined in a common covenantal task with those who take it. There are three institutions to which this principle applies: church, family, and state.

This law was symbolic of all three covenantal relationships in soci-

ety: church, family, and state. Israel was not to join with other nations in a covenantal bond; neither were Israelites to marry foreigners. The church was to be kept pure. Modern humanistic political theory denies that this principle of separation applies to the civil covenant, but clearly it applied in Mosaic Israel. Where Israelites exercised lawful civil authority, they were not voluntarily to share political power with covenant-breakers. Those Christians who invoke Paul's authority to prohibit marriages between Christians and non-Christians are necessarily invoking Deuteronomy 22:10. No one should assume that Paul annulled the principle of unequal yoking in the civil covenant while affirming it in the church and family covenants. The case for Paul's supposed annulment of the civil covenant's yoke must be proven exegetically. It must not merely be assumed. Israel was under civil bondage during the captivity and after, so this law could not be applied in civil government, but this is not proof that this law has been partially annulled. Christian political pluralists assume that the law of unequal yoking has been partially annulled, but they do not offer an exegetical defense.[19]

F. Clothing

Mixed clothing made of linen and wool was under a different kind of prohibition. It was illegal to wear clothing produced by mixing these two fibers. There was no law against producing mixed cloth for export, however. Why was wearing it wrong but exporting it allowed?[20]

No other form of mixed-fiber clothing was prohibited by the Mosaic law. Did this case law by implication or extension prohibit all mixed fibers? This seems doubtful. It would have been easy to specify the more general prohibition rather than single out these two fibers. Then what was the nature of the offense? Answer: to wear clothing of this mixture was to proclaim symbolically *the equality of Israel with all other nations*. This could not be done lawfully by Israelites. It could be done by non-Israelites outside Israel, for there, no such opinion had any covenantal authority.

Linen was the priestly cloth. The priests were required to wear linen on the day of atonement (Lev. 16:30–34). Linen was to be worn by the priest in the sacrifice of the burnt offering (Lev. 6:10). During and after the Babylonian captivity, because of their rebellion in Is-

19. Gary North, *Political Polytheism: The Myth of Pluralism* (Tyler, Texas: Institute for Christian Economics, 1989).

20. In biblical law, if something is not prohibited, it is allowed.

rael, the Levites and priests were placed under a new requirement that kept them separate from the people: they had to wear linen whenever they served before the table of the Lord. They had to put on linen garments when they entered God's presence in the inner court, and remove them when they returned to the outer court. No wool was to come upon them (Ezek. 44:15–19). The text says, "they shall not sanctify the people with their garments" (Ezek. 44:19). Priestly holiness was associated with linen.

Inside a priestly nation, such a mixture was a threat to the holiness of the priests when they brought sacrifices before God. As between a priestly nation and a non-priestly nation, this section of Leviticus 19:19 symbolized the national separation of believers from unbelievers. Deuteronomy 22:11 is the parallel passage: "Thou shalt not wear a garment of divers sorts: [as] of wool and linen together."

Inside the boundaries of Israel, this law symbolized sacrificial separation: the tribe of Levi was set apart as a legal representative before God. In this *intra-national* sense, this law did have a role to play in the separation of the tribes. This is why it was connected to the two seed laws in Leviticus 19:19.

It is still prohibited to mix covenantal (confessional) opposites in a single covenant: in church, state, and family. But is the wearing of this mixture of these two fabrics still prohibited? No. Why not? Because of the change in the priesthood (Gal. 3). Our new covering is Jesus Christ. Paul wrote: "For as many of you as have been baptized into Christ have put on Christ. There is neither Jew nor Greek, there is neither bond nor free, there is neither male nor female: for ye are all one in Christ Jesus. And if ye be Christ's, then are ye Abraham's seed, and heirs according to the promise" (Gal. 3:27–29). Here it is again: *inheritance is by God's promise to Abraham*. The sign of this inheritance is no longer circumcision; it is baptism. This is our new clothing. The old prohibition against mixing wool and linen in our clothing is annulled. The new priesthood is under a new covering: Jesus Christ.

G. The Question of Jurisdiction

Was this a civil law or an ecclesiastical law? To identify it as a civil law, we should be able to specify appropriate civil sanctions. The text mentions none. The civil magistrate might have confiscated the progeny of the interbreeding activities, but then what? Sell the animals? Export them? Kill them and sell the meat? These were possible sanctions, but the text is silent. What about mingled seed? Was the entire

crop to be confiscated by the state? Could it lawfully be sold? Was it unclean? The text is silent. This silence establishes a *prima facie* case for the law as ecclesiastical.

The mixed clothing law refers to a fact of covenantal separation: a nation of priests. The Israelites were not to wear clothing made of linen and wool. Mixing testified symbolically to the legitimacy of mixing a nation of priests and a common nation. This is why wearing such mixed cloth was prohibited. This aspect of the case law's meaning was primarily priestly. Again, the *prima facie* case is that this was an ecclesiastical law and therefore to be enforced by the priesthood.

The maximum ecclesiastical sanction was excommunication. This would have marked the law-breaker as being outside the civil covenant. He faced the loss of his citizenship as well as the disinheritance of his sons unless they broke with him publicly. Instead of a mere economic loss, he faced a far greater penalty. This penalty was consistent with the status of this law as a seed law. The prohibition of mixed seeds was an affirmation of tribal separation until Shiloh came. An attack on tribal separation was an attack on Jacob's messianic prophecy. The appropriate penalty was ecclesiastical: removal from both inheritance and citizenship within the tribe.

Conclusion

In this chapter I have attempted to answer three questions: What did these verses mean? How were they applied? How should they be applied today? This is the three-part challenge of biblical hermeneutics.

The prohibition against the mixing of seeds—animals and crops—was symbolic of the mandatory separation of the tribes. This separation was eschatologically based: till Shiloh came (Gen. 49:10). The prohibition against wearing a mixed cloth of linen and wool was a priestly prohibition: separation of the tribe of Levi within Israel and symbolic of the separation of the priestly nation of Israel from other nations, i.e., a confessional separation.

The law prohibiting mixed seeds was temporary because it was tribal. It ended with the death, resurrection, and ascension of Jesus Christ, or, at the latest, at Pentecost. *Spiritual adoption has overcome tribalism as the basis of inheritance in the kingdom of God*. The gift of the Spirit, not physical reproduction, is the basis of Christians' inheritance. National Israel was disinherited in A.D. 70.[21] The kingdom

21. David Chilton, *The Days of Vengeance: An Exposition of the Book of Revelation* (Ft. Worth, Texas: Dominion Press, 1987).

of God was taken from national Israel and given to a new nation, the church (Matt. 21:43). The jubilee land laws (Lev. 25) have ended forever. So have the prohibitions against genetic mixing and mixed crops. When people are baptized into Christ through the Spirit, this new priesthood puts on Christ. The older requirements or prohibitions regarding certain types of garments have ended forever. What remains is the judicial boundary between covenant-breakers and covenant-keepers. This separation is eternal (Rev. 20:14–15).

The biblical principle of not mixing seeds, whether of animals or crops, in a single field applies to us only indirectly. The basic judicial application is that we must be faithful to Jesus Christ, the promised Seed, who has come in history. In Him alone is true inheritance. But there is no application with respect to tribal boundaries. The tribes of Israel are gone forever. Thus, there is no application of this verse genetically. We are allowed to breed animals and plant various crops in the same field at the same time.

The other applications of the principle of separation prohibited (1) plowing with both an ox and a donkey, (2) the wearing of mixed fiber garments: linen and wool. The prohibition against plowing with different species reflects the biblical principle of covenantal relationships: the prohibition against unequal yoking. Israel was to have no covenantal relationships with the nations around her. That law is still in force.

The prohibition against mixed clothing applies to us today through baptism, for by baptism we have received our new clothing in Christ. This principle of separation still holds nationally, for it is covenantal, not tribal. It refers to the distinctions between priests and non-priests, between priestly nations (confessionally Christian) and non-priestly nations. It refers to the distinction between Christendom and every other world system. But it has nothing to do with fabrics any longer.

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THE FUGITIVE SLAVE LAW

> *Thou shalt not deliver unto his master the servant which is escaped from his master unto thee: He shall dwell with thee, even among you, in that place which he shall choose in one of thy gates, where it liketh him best: thou shalt not oppress him.*
>
> DEUTERONOMY 23:15–16

The theocentric principle that undergirded this law is the principle of God's sanctuary. The meaning of "sanctuary," as with "sanctification," is related to holiness. A sanctuary is a place formally marked by boundaries for the worship of God. This does not mean that everyone who enters a sanctuary is there to worship God. It does mean that everyone inside its boundaries has unique access to God.

A. Slaves from Abroad

This law seems to be contrary to the Mosaic law's defense of private property in slaves. Foreign slaves in Israel were the permanent possession of their Israelite owners, generation after generation (Lev. 25:44–46).[1] Furthermore, Israelite bondservants were not free to come and go as they pleased. A debtor who had forfeited payment on a zero-interest charitable loan had to serve his creditor until the next year of release—up to six years (Ex. 21:2).[2] If an Israelite had been sold into bondage to another Israelite in order to repay a non-charitable loan, he had to serve until the next jubilee—up to 49 years (Lev. 25:39–40).[3] If an Isra-

1. Gary North, *Boundaries and Dominion: An Economic Commentary on Leviticus*, 2nd ed. (Dallas, Georgia: Point Five Press, [1994] 2012), ch. 30.

2. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 3, *Tools of Dominion* (1990), ch. 31.

3. North, *Boundaries and Dominion*, ch. 29.

elite sold himself into bondservice to a resident alien, he had to serve until the next jubilee or until one of his relatives bought him out of servitude (Lev. 25:47–52).[4] In short, the Mosaic law upheld the right of a foreigner to retain ownership of an Israelite. This was a strong defense of private property. Contrary to Rushdoony, there was nothing even remotely voluntary about remaining in temporary bondservice, let alone permanent slavery.[5] This is why it took an act of extreme violence by a master to authorize a civil court to award a slave his freedom, e.g., poking out an eye or knocking out a tooth (Ex. 21:26–27).[6]

This was not a land law.[7] If the jubilee land law authorizing foreign servitude could not be invoked by a foreign slave owner to get back his slave, surely a foreigner cannot invoke it today, after Christ has annulled the jubilee law (Luke 4:17–21),[8] including the law authorizing inter-generational slavery.

1. An Immigrant

The key words that unlock the meaning of this passage are *among* and *gates*. The escaped slave described in this passage had come to dwell among them. The words "with thee" were added by the translators. The Hebrew word for *among* immediately follows *dwell*. The Hebrew word could also be translated *within*, meaning within a jurisdiction. The escaped slave also had the right to choose where he would live. He could choose one gate from many gates, meaning any city.

To understand this law better, we must first consider the fact that Mosaic civil law did not compel anyone to offer positive sanctions.[9] Rather, it imposed negative sanctions for evil acts. It should be the ideal for every system of civil law to remove all positive sanctions by the state and impose only those negative sanctions authorized by, or implied by, biblical law. The state is to impose negative sanctions only: punishing public evil. It is not a wealth-creator; it is a wealth-re-

4. *Ibid*., ch. 31.

5. He wrote: "Thus, the only kind of slavery permitted is voluntary slavery, as Deuteronomy 23:15, 16 makes very clear." R. J. Rushdoony, *The Institutes of Biblical Law* (Nutley, New Jersey: Craig Press, 1973), p. 286.

6. North, *Authority and Dominion*, ch. 39.

7. On land laws, see Appendix J.

8. Gary North, *Treasure and Dominion: An Economic Commentary on Luke*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 6.

9. Restitution payments by the convicted criminal are the restoration of what is owed to the victim. The state coercively redistributes wealth back to the lawful owner. The legal owner was the victim of a crime. Under biblical law, no one has a legal claim on another person's wealth merely because the other person is richer.

distributer. It is not safe to entrust to the state the power of making one man rich at the expense of another. It is also not moral. A welfare state is a covenant-breaking state.

Second, we should recognize that slaves do not "dwell among" an individual. The language indicates that this law was addressed to a corporate group, the nation. It was a civil law. It did not compel any Israelite to grant a positive sanction to the escaped slave. What it did was to prohibit Israel's civil authorities from imposing a specific negative sanction on him, namely, returning him to his owner or forbidding him the right to take up residence in a city. The locus of jurisdiction was the nation, from which the slave could choose any city as his place of residence. *This indicates that he had not previously been a resident of Israel*. He was an escapee from servitude in a foreign household in a foreign nation.

2. Idolatry

The key covenantal issue here is hierarchy. This former slave had been in bondage to a foreign master, who in turn was in bondage to a foreign god. The slave had sought deliverance from his former master. He had decided to come to Israel because it was the nation in which former slaves could be free men. *Men were free in Israel because they were not in bondage to idols*. This is the heart of the Bible's message: *deliverance from evil*. This deliverance begins with deliverance from idolatry. In the Old Covenant, idolatry was almost universal outside of Israel.[10] There was little likelihood that this slave would bring along an idol from the household of his former master. Such an idol would have been the mark of his former servitude. In any case, household or civic idols in the ancient Near East were exclusively local gods. The fugitive slave's presence inside the boundaries of Israel testified to their limited jurisdiction.

My interpretation of this law as applying to foreign slaves has ancient precedents. The Talmud declared this fugitive to be a non-Jewish slave of a Jewish master living outside the land (Gittin 45a). There is no exegetical evidence for identifying the owner as a Hebrew, but the rabbis did identify the fugitive as having immigrated into Israel. Nachmanides argued that this slave had been in bondage to a foreigner. The key issue was idolatry, he said. "The reason for this commandment

10. The one major exception was Greek rationalism, a millennium after this law was declared. But Greek rationalism was the religion of very few classical Greeks, as Socrates' execution indicates.

is that with us he will worship God and it is not proper that we return him to his master to worship idols."[11] This statement is incorrect with respect to worshipping God, for worship was not required of any foreigner residing in Israel. He was required only to obey God's civil laws, which did not include formal worship. But it is true that the slave had been delivered from the idolatrous rituals of his former household, in which a slave would probably have been compelled to participate.

Nachmanides also argued that the slave probably had fled into the camp of the Israelites during an offensive miliary campaign by Israel against a foreign city.[12] The previous section of Deuteronomy sets forth laws governing foreign campaigns (vv. 9–14). This is a plausible argument. A foreign slave would have had a much greater opportunity to flee from a foreign master during a defensive war against Israel. But this law stands on its own, irrespective of war. Any slave who could get to Israel—the Promised Land—could escape bondage. This fact would have become well known among slaves in the ancient Near East, as word of this sanctuary spread from slave to slave. Israel would have attracted other men's slaves.

3. Private Property

Israel honored private property. Property is an extension of the kingdom of God in history. Private property is an owner's legal immunity from fraud and violence, both private and pubic, which is granted by God and is supposed to be enforced by the state. God's authority to grant such a legal immunity is based on His original ownership of the creation and His delegation of stewardship tasks to individuals. Every individual is responsible to God for the management of whatever it is that God has put under his authority, as Jesus' parable of the three stewards indicates (Matt. 25:14–30)[13]—the parable that immediately precedes His description of the final judgment: sheep and goats. In short, *private property is legally grounded in the doctrine of God's absolute sovereignty*.

The foreign slave master did not acknowledge God's authority. Therefore, his rights of property were inferior to the fugitive slave's right to asylum in Israel. The Promised Land was to be a place of refuge, a sanctuary—a set-apart place, i.e., a holy place. Immigrant

11. Nachmanides, *Commentary on the Torah*, 5 vols. (New York: Shiloh, [1267?] 1976), V, p. 288.

12. *Idem*.

13. Gary North, *Priorities and Dominion: An Economic Commentary on Matthew*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 47.

fugitive slaves were not compelled to worship God, but they did have to obey God's civil laws. They had to honor God to this extent. Foreign gods could no longer claim jurisdiction over these ex-slaves. The power of foreign gods was broken to this extent.

The former slave master was disinherited by this law. His living inheritance had fled to a sanctuary. The legal defense of his inheritance under the authority of an idol was sacrificed to the principle of defending Israel's boundaries and its sanctuary status. The biblical covenantal principles of God's sovereignty, His hierarchical authority, and Israel's boundaries were superior to pagan covenantal principles: local god or gods, an alternative hierarchy, and local jurisdiction.

In effect, the Mosaic law acknowledged the right of a foreign slave master to proclaim his local god's local authority. If he chose to live under such tyranny, he was entitled to do so. But this idolatrous tyranny would not extend its authority across Israel's borders. This case law mandated that Israel's civil government not return immigrant slaves to their foreign masters. It announced to foreign masters: "You want to worship a local god? Very well, have your own way. Your god's jurisdiction does not extend across Israel's boundaries. Your property rights in people's lives do not extend across these boundaries."

This means that a foreign slave who had been purchased by an Israelite in a foreign nation would henceforth live inside a sanctuary established by God: a covenant-keeping household in a covenant-keeping nation. He could hear God's word there. He would be circumcised (Gen. 17:2). He would attend Passover with the family. Through lawful purchase, he had been separated from the idolatry of his nation. Legally, the head of his new household had become his kinsman redeemer. *This practice pointed forward to Jesus Christ's purchase of the gentiles through His death on Calvary*. Covenanted gentiles now live in His household, not merely as servants but as adopted sons. Christ has become their kinsman redeemer.

Whether a slave's new household was located in a foreign nation or in Israel, he was the property of his owner. Prior to the annulment of the law of permanent slavery by Jesus Christ's fulfillment of the jubilee law, the principle of the covenant-keeping household as a foreign slave's sanctuary superseded the principle of the Israelite city as the foreign slave's sanctuary.[14]

14. In the New Covenant, the principle of the covenanted Trinitarian nation as a sanctuary for oppressed foreign slaves is still in effect. This includes the escaped slaves of messianic states.

B. Oppression

The Mosaic law repeatedly mentions three classes of people who deserved special consideration as deserving of justice: widows, orphans, and strangers. The immigrant fugitive slave was in a vulnerable position—indeed, the most vulnerable position in Israel. He could not return home without becoming enslaved again. Worse; he was a man who had run away. He would be subject to harsh penalties. Masters would have made him an example to other would-be fugitive slaves. The fugitive slave in Israel had no local family, no access to landed inheritance, no citizenship, and no place to return. He had been at the bottom of the social ladder in his home country. Except for the foreign slave permanently owned by an Israelite family, he was at the bottom of the social scale in Israel. But, economically speaking, he was potentially in worse shape than the permanent slave, who was part of an Israelite household. He had no economic safety net.

What did it mean to oppress a person? Oppression as defined by the Bible is a judicial act. It involves using civil law to steal from or otherwise restrict an honest person. Oppression is a misuse of the civil law. There is no economic definition available to civil judges to identify oppression. There is only a judicial standard.[15] The biblical principle of civil justice is expressed in Exodus 12:49: "One law shall be to him that is homeborn, and unto the stranger that sojourneth among you." The rule of law is at the heart of civil justice.[16] To use the civil law to shape the outcome of another person's economic output is a form of oppression. When the state shapes economic results by applying the law to one group in a way not applied to all men, someone is being oppressed.

The judicial defenselessness of the immigrant ex-slave was not supposed to become an opportunity for oppression. He was not to be targeted as a likely candidate for theft through judicial manipulation. His property rights were to be upheld in Israel, unlike his former master's property rights. His former master had gained authority over him by means of another god's laws. The God of Israel had become his liberator. Liberation in Israel was a symbol of liberation by God. It meant liberation from corrupt civil laws. The rule of God's law gave him his liberty. It also warned him regarding the final judgment: all men are under the same law and sanctions. All men need the mercy of God as the judicial basis of their liberation from sin and its eternal consequences: negative sanctions.

15. North, *Authority and Dominion*, chaps. 48:C, 52.
16. *Ibid.*, ch. 14.

Conclusion

Economics is subordinate to biblically revealed religion. So is everything else. Private property is not an absolute principle. Neither is any other principle. No arrangement or institution is absolute in history. Only the written word of God possesses unchangeable, comprehensive authority in history.[17] No institution can legitimately claim total allegiance. Any institution that does so will fail. The more secular it is, the sooner it will fail. This is why the Communist Party failed, despite its extraordinary international expansion under Lenin and Stalin. It claimed total allegiance.[18] It could not enforce this. One by one, the most eloquent of Communism's disaffected former disciples recognized it as the god that had failed, decades before it visibly failed.[19]

Is this case law still in force? Yes. Christian societies should be sanctuary societies, where liberty is available to all residents: liberty under biblical law. The sanctuary is bounded; these boundaries must be defended by the sword. This means that Christian societies must be defended by confessionally Christian civil governments. In short, *biblical sanctuary means Trinitarian theocracy*. There can be no permanent sanctuary state in history apart from Christian theocracy,[20] just as there is no sanctuary in eternity apart from subordination to the King of kings.

No magistrate in a Christian nation should ever send an immigrant fugitive slave back to his master. His master may be the state. Modern nations do not admit to being slave societies, even when they are. The reality of slavery, whatever it is called, should be acknowledged by the civil authorities in free societies. Immigration laws should offer sanctuary to all those who are suffering from the judicial equivalent of slavery.[21]

The covenantal problem here is that open borders into a confessionally pluralistic nation offer ripe fruit to dedicated disciples of non-pluralistic foreign religions. They bring their gods with them.

17. "Heaven and earth shall pass away, but my words shall not pass away" (Matt. 24:35).

18. Benjamin Gitlow, *The Whole of Their Lives* (New York: Scribner's, 1948).

19. Richard Crossman (ed.), *The God That Failed* (New York: Harper, 1949).

20. The United States was the most open sanctuary society in history. It was also socially Protestant throughout most of its history. California began to erect immigration barriers against the Chinese toward the end of the nineteenth century, when the Darwinian Progressive movement was beginning to gain political strength. The 1924 national immigration law was passed in the middle of the humanistic Roaring Twenties.

21. Gary North, "The Sanctuary Society and Its Enemies," *The Journal of Libertarian Studies*, XII (Summer 1998), pp. 205–19.

These gods are not local gods; they make universal claims, just as the God of the Bible does. Their disciples want to extend the authority of their non-pluralistic religions. Islam is the obvious example. When citizenship is not grounded in a public confession of faith in the God of the Bible, immigrants can work to change the pluralistic confession of the nation after they become naturalized citizens. The religion of pluralism offers most of these immigrants equal access to the public square, once they become citizens. The result is the weakening of Christian faith in the public square and the undermining of the remnants of Christian civilization. In secular democratic nations, the war for the national confession will be fought in the nation's bedrooms. Apart from a massive revival, comparative birth rates will determine the future national confession. In Western Europe, Islam is winning this demographic war.[22]

This is not to deny the legitimacy of open borders. Open borders were basic to Mosaic Israel. If fugitive slaves were welcomed in Israel, how much more were free men welcomed! If people who were lowest on the social scale outside the land had legal access to residency inside the land, how much more did capital-owning immigrants have access! This case law offers additional evidence that Israel had an open doors immigration policy. People who were willing to submit to the civil laws of Israel's God were offered freedom inside the holy nation's boundaries. Israel was a true sanctuary.[23]

The deciding civil issue was confession of faith. Citizenship was open only to circumcised men and their wives who confessed faith

22. Pat Buchanan, *The Death of the West: How Dying Populations and Immigrant Invasions Threaten the West* (New York: St. Martin's, 2001).

23. In 1850, the government of the United States passed a fugitive slave law. This law mandated that offcers of the United States government extradite fleeing slaves to southern states. These offcers were empowered to appoint local commissioners to assist them. These commissioners in turn were empowered to compel private citizens to join a *posse comitatus* to chase down fugitive slaves. No jury trials on the alleged slave's judicial status were allowed in North; none was authorized in the South, either. The accused was not allowed to present testimony in the North regarding his free status. A fine of $1,000—a huge sum in 1850—was imposed on anyone who aided a slave in escaping. "The Compromise of 1850," in *The Annals of America*, 18 vols. (Chicago: Encyclopedia Britannica, 1968), VIII, pp. 55–57. In short, the government of the United States compelled residents in the North to cooperate with slave owners in the South whose forefathers had purchased kidnapped Africans from slave traders (mainly Northerners) prior to 1808, when the import of slaves was outlawed inside the United States. After 1808, Southern slave owners bred them for sale, cutting the North out of the lucrative industry. The fugitive slave law of 1850 forced Northern moralists to break the law and help those slaves who broke it. The enforcement of this law over the next decade steadily separated the United States into two nations: a sanctuary nation and

in the God of Israel and who participated in Passover. Israel was not pluralistic. Long-term residence did not mean the right to vote. It meant only the right to participate without discrimination in Israel's economy. It meant justice; it did not mean judgeship.

a slave nation. The politicians found no way to reconcile these two nations. This law created the mentality of "two nations in one," which in turn led to the Civil War (1861–65). After the South's states seceded in late 1860 and early 1861, the newly inaugurated President, Abraham Lincoln, decided to force them back into the Union militarily.

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USURY: YES AND NO

> *Thou shalt not lend upon usury to thy brother; usury of money, usury of victuals [food], usury of any thing that is lent upon usury: Unto a stranger thou mayest lend upon usury; but unto thy brother thou shalt not lend upon usury: that the* LORD *thy God may bless thee in all that thou settest thine hand to in the land whither thou goest to possess it.*
>
> DEUTERONOMY 23:19–20

The theocentric principle here is that God protects His people as a shepherd protects his flock. He places boundaries around them.

A. Subordination and Debt

The text specified that the covenant-keeping lender was to imitate God by not lending at interest to a brother in the faith, i.e., a person who publicly confesses faith in the God of the Bible and who had subordinated himself to the covenanted ecclesiastical community by means of an oath-sign.[1] Those who were outside of the covenanted ecclesiastical community could be lawfully treated as a shepherd would treat sheep outside his flock. These sheep did not recognize his voice. These sheep were not under his authority; therefore, they were not under his protection.

What is judicially crucial here is the biblical concept of becoming a brother's protector. The shepherd-sheep relationship implies *subordination by the sheep*. "The rich ruleth over the poor, and the borrower is servant to the lender" (Prov. 22:7).[2] The Mosaic law recognized that

1. Under the Old Covenant, circumcision; under the New Covenant, baptism. See Ray R. Sutton, *That You May Prosper: Dominion By Covenant,* 2nd ed. (Tyler, Texas: Institute for Christian Economics, [1987] 1992), pp. 86–89.

2. Gary North, *Wisdom and Dominion: An Economic Commentary on Proverbs*, 2nd ed. (Dallas, Georgia: Point Five Press, [2007] 2012), ch. 67.

a sheep enters the debt relationship as a subordinate. As we shall see, the cause of this subordination was to be a factor in the lender's decision as to which kind of loan is involved: charitable or business. The poor brother who had fallen on hard times through no moral fault of his own was morally entitled to a zero-interest charitable loan (Deut. 15:1–7).[3] This subordination aspect of a loan is universal. This law was therefore not a land law.[4] It had implications for the Israelites' maintenance of the kingdom grant, but its legitimacy was not based on this grant.

This law indicates that God protects covenant-keepers in a way that He does not protect covenant-breakers. He regards the former as deserving of special consideration. This is a matter of inheritance.

> The wicked borroweth, and payeth not again: but the righteous sheweth mercy, and giveth. For such as be blessed of him shall inherit the earth; and they that be cursed of him shall be cut off. The steps of a good man are ordered by the LORD: and he delighteth in his way. Though he fall, he shall not be utterly cast down: for the LORD upholdeth him with his hand. I have been young, and now am old; yet have I not seen the righteous forsaken, nor his seed begging bread. He is ever merciful, and lendeth; and his seed is blessed. Depart from evil, and do good; and dwell for evermore. For the LORD loveth judgment, and forsaketh not his saints; they are preserved for ever: but the seed of the wicked shall be cut off. The righteous shall inherit the land, and dwell therein for ever (Ps. 37:21–29).

There was a positive sanction attached to this law: "that the LORD thy God may bless thee in all that thou settest thine hand to in the land whither thou goest to possess it." Moses promised that God would provide visible blessings in the land. The land was not the positive sanction attached to this law, for it would soon be their inheritance. But comprehensive blessings inside the land's boundaries would be the result of honoring this law. There can be no doubt about this law's importance. This law was highly specific, but the blessings attached to it were so comprehensive that they were unspecified.

B. Two Kinds of Loans

In the other case laws dealing with zero-interest loans, it was the poor brother who was to be benefited. "If thou lend money to any of my people that is poor by thee, thou shalt not be to him as an usurer,

3. Chapter 35.
4. On land laws, see Appendix J.

neither shalt thou lay upon him usury" (Ex. 22:25).[5] This protection extended to the resident alien. "And if thy brother be waxen poor, and fallen in decay with thee; then thou shalt relieve him: yea, though he be a stranger [*geyr*], or a sojourner [*toshawb*]; that he may live with thee. Take thou no usury of him, or increase: but fear thy God; that thy brother may live with thee. Thou shalt not give him thy money upon usury, nor lend him thy victuals for increase" (Lev. 25:35–37).[6] There were two deciding factors in making a zero-interest loan: the would-be borrower's poverty and his status as legally protected.

One biblical principle of interpretation is this: the more narrowly specified text is considered authoritative over the more broadly specified text. That which is narrowly defined is clearer. It provides more data on how the text is to be understood. We should move from the clear to the less clear, from the specific to the general.

In the interpretation of this case law, we conclude that if God had prohibited covenant-keepers from charging interest to everyone, He would not have excluded the stranger from the prohibition. Similarly, if He had prohibited covenant-keepers from charging interest to other covenant-keepers, He would not have specified poor brethren as coming under the prohibition. There would have been no need for God to identify a smaller group among the brethren as deserving of special treatment if all brethren were equally deserving of such treatment.

Not only was the economic status of the circumcised brother a criterion, so was the kind of loan. A charitable loan was morally compulsory. "If there be among you a poor man of one of thy brethren within any of thy gates in thy land which the LORD thy God giveth thee, thou shalt not harden thine heart, nor shut thine hand from thy poor brother: But thou shalt open thine hand wide unto him, and shalt surely lend him sufficient for his need, in that which he wanteth" (Deut. 15:7–8).[7] To this type of loan was attached a negative civil sanction for a debtor's failure to repay: a period of bondage that lasted until the next national year of release (Deut. 15:12). This could be

5. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 3, *Tools of Dominion* (1990), ch. 49.

6. Gary North, *Boundaries and Dominion: An Economic Commentary on Leviticus*, 2nd ed. (Dallas, Georgia: Point Five Press, [1994] 2012), ch. 28.

7. Moral compulsion is not legal compulsion. The state was not to impose negative sanctions on anyone who refused to lend. God would provide positive sanctions on those with open wallets: "Thou shalt surely give him, and thine heart shall not be grieved when thou givest unto him: because that for this thing the LORD thy God shall bless thee in all thy works, and in all that thou puttest thine hand unto" (Deut. 15:10).

up to six years of bondage. Yet it was also possible for a debtor to be enslaved for a much longer period for a failure to repay a debt: until the next jubilee year (Lev. 25:39–41).[8] This could be up to 49 years of bondage. This raises a major question: What criteria distinguished sabbatical-year debt servitude from jubilee-year debt servitude?

The first criterion was the presence of an interest rate. If a poor man sought a morally compulsory zero-interest loan from his brother in the faith, he placed himself at risk for up to six years. At the end of that time, either the loan was automatically cancelled by law or else he, having previously forfeited repayment, was released from bondage and sent out with food and drink by his creditor (Deut. 15:13–14). A second criterion was that a charitable loan did not require a man's landed inheritance as collateral. Collateral was either goods or else his willingness to become a bondservant for defaulting. The text does not indicate that he was required to pledge his family's landed inheritance in order to collateralize a charitable loan.

If a man who possessed a rural inheritance that he could use as collateral decided to seek a non-charitable loan, he had no moral claim on the lender, nor could he reasonably expect to receive an interest rate of zero. This loan would have been either a business loan or a consumer loan. This would-be debtor was not truly poor unless his land holdings were too small to support him. The presence of jubilee-bondage loans in addition to sabbatical year-bondage loans indicates that there were commercial loans in Israel. If the interest-bearing commercial debt contract placed him at risk of bondage, then by forfeiting payment on the loan, the debtor placed himself in a much longer term of bondage. This is evidence that commercial loans were much larger than charitable loans. Such loans could be made for longer periods of time than six years. The collateral was the income stream of the land and even the individual for up to forty-nine years. In short, a commercial loan could place at risk the fruit of a man's inheritance until the next jubilee.

C. Two Kinds of Aliens

The alien or stranger [*nokree*] was eligible for an interest-bearing loan at any time. Loans to him were permanent; the year of release did not benefit him. "And this is the manner of the release: Every creditor that lendeth ought unto his neighbor shall release it; he shall

8. North, *Boundaries and Dominion*, ch. 29.

not exact it of his neighbor, or of his brother; because it is called the LORD's release. Of a foreigner [*nokree*] thou mayest exact it again: but that which is thine with thy brother thine hand shall release" (Deut. 15:2–3). The foreigner here was an alien who either was not a property-owning resident in Israel or was not circumcised. He was not a permanent resident who had settled in a city, i.e., a sojourner.

The Mosaic law distinguished between the two kinds of aliens in other ways. In the law governing unclean meat, we read: "Ye shall not eat of any thing that dieth of itself: thou shalt give it unto the stranger [*geyr*] that is in thy gates, that he may eat it; or thou mayest sell it unto an alien [*nokree*]: for thou art an holy people unto the LORD thy God" (Deut. 14:21a). The permanent resident could receive the unclean meat as a gift, but it could not be sold to him, i.e., it offered no profit for the Israelite. In contrast, it was lawful to sell ritually unclean meat to a foreigner [*nokree*].[9]

The permanent resident [*geyr*] was to be treated as a brother: he was not to be charged interest on a charitable loan, as we have seen (Lev. 25:35–37).[10] He was a kind of honorary Israelite. Not being a citizen of Israel—a member of the congregation—he could not serve as a judge. If he was not circumcised, he could not enter the temple or eat a Passover meal. But as a man voluntarily living permanently under biblical civil law, he was entitled to the civil law's protection, including the prohibition against interest-bearing charitable loans. Permanently residing voluntarily under the law's authority, he was under its protection.

Lending at interest was one of God's means of bringing foreigners under the authority of Israel. "For the LORD thy God blesseth thee, as he promised thee: and thou shalt lend unto many nations, but thou shalt not borrow; and thou shalt reign over many nations, but they shall not reign over thee" (Deut. 15:6).[11] This was an aspect of *dominion through hierarchy*: "The rich ruleth over the poor, and the borrower is servant to the lender" (Prov. 22:7).[12] The foreigner was fair game for a program of profitable money-lending. This included loans to poor foreigners. When a foreigner was desperate for money, an Israelite was allowed to take advantage of the situation and lend to him at interest. In contrast, the resident alien was legally protected; he was to

9. Chapter 34.
10. North, *Boundaries and Dominion*, ch. 28.
11. Chapter 37.
12. North, *Wisdom and Dominion*, ch. 67.

be treated as a brother. He was already voluntarily under God's civil law and some of the ritual laws, such as ritual washing after eating meat that had died of natural causes (Lev. 17:15). There was no need to bring him under dominion through debt. He had already acknowledged his debt to God.

D. Which Jurisdiction?

The negative sanction for forfeiture was a period of bondage. This placed the Mosaic debt laws under the civil government. But there were no stated penalties for a lender's refusal to lend, despite the moral compulsion aspect of the charitable loan. God promised to bring negative sanctions against the individual who refused to honor this aspect of the law (Deut. 15:9) and positive sanctions for the man who honored it (v. 10). The state is not a legitimate agency for bringing positive sanctions. The state lawfully imposes only negative sanctions. It enforced bondage on those debtors who defaulted, but it did not compel lenders to make loans.

This means that the lender was under God's sanctions directly, while the debtor was under God's sanctions indirectly. The lender might give him the positive sanction of a charitable loan, and the state would enforce the penalty for non-repayment. The debtor's obligations were specific: pay back so much money by a specific date or suffer the consequences. The lender's obligations were not specific: lend a reasonable amount of money and subsequently receive unspecified blessings from God. There was no earthly institution that could lawfully enforce specific penalties on such unspecific transactions.

Biblical civil law prohibits specific acts. The state lawfully enforces contracts, but these contracts are narrowly specified in advance by the parties. The state enforces justice, which includes imposing negative sanctions on those who violate contracts. But it is not the state's responsibility to mandate that potential lenders provide loans of a specific size and duration to borrowers.

E. Not Restricted to Money Loans

"Thou shalt not lend upon usury to thy brother; usury of money, usury of victuals [food], usury of any thing that is lent upon usury" (v. 19). This clause in the law makes it plain that usury, meaning a positive interest rate, applies across the board to all items lent. The phenomenon of interest is not limited to money loans. It is a universal

aspect of lending, which is why the law specifies that the prohibition applies to loans in general, not merely money loans.

1. Interest and Rent

There is an ancient and widespread error going back at least to Aristotle that interest on money loans is unproductive because money, unlike animals, does not reproduce itself. In other words, money is sterile. Therefore, Aristotle concluded, "of all modes of acquisition, usury is the most unnatural."[13] Yet the critics of usury have generally viewed rent on land as legitimate.[14] If I loan someone 20 ounces of gold and charge him one ounce per year in interest, I am viewed as a usurer and somehow morally questionable. If, on the other hand, I let the same person use my farm land, which is worth 20 ounces of gold, and I charge him one ounce of gold per year as rent, I come under no criticism. Why this difference in opinion? In both cases, I give up something valuable for a period of time. I can either spend the gold or invest it in a business venture. Similarly, I can either sell the farm or plow it, plant it, and reap a crop. In both cases, I allow someone else to use my asset for a year, with which he can then pursue his own goals. I charge him for this privilege of gaining temporary control over a valuable asset. I charge either interest or rent because I do not choose to give away the income which my asset could generate during the period in which the other person controls it.

To expect me to loan someone my 20 ounces of gold at no interest is the same, economically speaking, as to expect me to loan him the use of my farm on a rent-free basis. In fact, the thing which people conventionally call *rental income* is analytically *interest income*. Because a payment for the use of land is seen as morally neutral, men describe the interest income generated by land by means of a morally neutral term: rent. Because a payment for the use of money is seen as morally reprehensible, men describe the interest income generated by money loans by means of a morally loaded term: usury. But the transactions are analytically identical. *Interest income and rental income are the same thing: payment for the use of a marketable asset over time.*

There is a tendency to see interest as something exploitative and rent as something legitimate. Interest income is not seen as produc-

13. Aristotle, *Politics*, I:X, trans. Ernest Barker (New York: Oxford University Press, [1946] 1958), p. 29.

14. This would be an extension of Aristotle's argument: "acquisition of fruits and animals." *Ibid.*, p. 28.

tive; rental income *is* seen as productive. Why the difference? Probably because people think that the creation of value is limited to the creation of goods and services. This outlook is incorrect, and the best example is the discovery of a new idea. It is not physical. We can see this analytical error at work in a series of examples.

2. The Deciding Factor Is Not Material

Example number one. I sell a one-year lease to my abandoned gold mine, which no longer produces any gold. I charge one ounce of gold for this opportunity, payable at the end of one year. The lease-holder discovers a new deposit, digs out two hundred ounces of gold in one year, and pays me one ounce of gold. Nobody thinks this arrangement is exploitative on my part. He gets rich, and I get my agreed-upon ounce of gold. Even if he fails to find any gold, most people would regard my net income of one ounce of gold as legitimate. After all, I let him use my abandoned gold mine for a year. He made a mistake, but he might have struck it rich.

Example number two. An inventor comes to me. He thinks that he has discovered a way to increase the output of gold mines—say, a chemical method of extracting more gold out of the ore. He does not have the money to complete his final experiment and file for a patent. I lend him 20 ounces of gold for a year at one ounce of gold interest. During this year, he completes the testing, files the patent, and sells the patent for a fortune. He returns my 20 ounces plus one ounce of gold. Have I exploited him? No. But what if his final test proves that the process does not work? Or what if he files the patent incorrectly and someone steals his idea, leaving him without anything to show for his effort? Am I an exploiter because I demand the return of my 20 ounces plus one? I was not a co-investor in the process. I would not have shared in his wealth had everything gone well. His use of my gold did allow him to follow his dream to its conclusion, whether profitable to him or not.

Example number three. What if he borrows my 20 ounces of gold to complete tests on another invention that is unrelated to gold mining? Has the economic analysis changed? No. The borrower seeks his own ends by means of the 20 ounces of gold. Meanwhile, the lender seeks his ends: an interest payment. Each party to the transaction pursues his own individual goals. Each believes that he can benefit from the transaction.

Conclusion: the physical nature of the asset lent for a fixed payment over time has nothing to do with the analytical basis of the

transaction, but it has a lot to do with people's confusion about interest. The heart of the matter[15] is not material; it is temporal. The lender gives up something of value for a period of time, and he will not do this voluntarily without compensation unless he believes that his refusal to make a zero-interest loan to a poor brother will result in negative sanctions from God, which it did in Mosaic Israel. "Beware that there be not a thought in thy wicked heart, saying, The seventh year, the year of release, is at hand; and thine eye be evil against thy poor brother, and thou givest him nought; and he cry unto the LORD against thee, and it be sin unto thee" (Deut. 15:9).

Deuteronomy 23:19–20 acknowledges the identical nature of these lending transactions irrespective of the physical composition of the items lent: money, food, or anything else. An interest payment was not to be charged on the kind of loan described here: a charitable loan to a brother in the faith. The *charitable aspect* of the loan was the *interest income foregone* by the lender. He could have used the asset to generate income for himself; instead, he lent freely and asked only that what he has lent be returned to him. He was charitable because he forfeited the income which his asset would have generated for him in the business loan market. He gave away this income to the borrower, who paid nothing for it.

F. Compensation for Risk

It is not simply that the lender forfeits income that others would otherwise pay him to use his asset for a year. The lender also bears risk. First, he bears the risk that the loan will not be repaid. The text governing charitable loans makes this clear: "Beware that there be not a thought in thy wicked heart, saying, The seventh year, the year of release, is at hand; and thine eye be evil against thy poor brother, and thou givest him nought; and he cry unto the LORD against thee, and it be sin unto thee" (Deut. 15:9). Charitable debts became unenforceable in Israel in the seventh year. All those who were in debt bondage for having failed to repay a charitable loan went free (Deut. 15:12), so the loan's collateral in the form of the borrower's future work would not be available to the lender as compensation for a default.

Second, the lender today bears the risk that, if he lends money, the government or the central bank may inflate the nation's domestic money supply, thereby lowering the value of the money which he re-

15. We call a mental concept "matter" when we really mean "issue" or "question." We refer "central importance" as "heart." The language of the material invades the mental.

ceives at the end of the loan period. To compensate him for this risk, the lender adds an inflation premium to the interest rate. The threat of price inflation due to monetary inflation is one reason why self-interested lenders should organize politically to pressure the government: (1) not to increase the money supply; (2) to prohibit the central bank from doing so.[16]

The lender must be compensated for known risk; otherwise, he will not make the loan. In commercial loans, borrowers compensate the lender for this risk. The risk of one borrower's default is paid for by a *risk premium factor* in the interest rate which is charged to all borrowers within the same risk classification. In the case of the charitable loan to the poor brother, God becomes the risk-bearer. He offers the lender the same shepherd-like protection in hard times that the lender offers the poor brother in hard times. The lender's faith in God's protecting hand is revealed by his willingness to lend at no interest to a righteous poor brother. Also, he thereby acknowledges that God has given him his wealth: "For the LORD thy God blesseth thee, as he promised thee: and thou shalt lend unto many nations, but thou shalt not borrow; and thou shalt reign over many nations, but they shall not reign over thee" (Deut. 15:6).[17]

G. Uncertainty vs. Risk

The free market economist offers a distinction between uncertainty and risk. Risk is a statistically calculable negative event. Certain classes of events can be forecasted accurately, i.e., within statistical limits. The discovery of this social fact made possible the modern economic world.[18] In contrast, uncertainty cannot be measured in advance. Some kinds of events cannot be forecasted by means of statistical techniques, e.g., inventions or the discovery of a gem or a gem of an idea. Risk is different from uncertainty.[19]

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16. If the money is gold or silver, and there is no fractional reserve banking, there will be a slow decline in prices over time in a productive economy, since increasing economic output (supply of goods and services) will lower prices in the face of the relatively fixed money supply. The price of goods approaches zero as a limit: the reversal of God's curse in Eden. In such a world, the lender of money reaps a small return: the money returned to him will buy slightly more than it would have bought when he lent it. In such a monetary environment, the borrower would be better off to borrow consumer goods rather than money.

17. Chapter 37.

18. Peter L. Bernstein, *Against the Gods: The Remarkable Story of Risk* (New York: Wiley, 1996).

19. Frank H. Knight, *Risk, Uncertainty and Profit* (Boston: Houghton Mifflin, 1921);

While we all are to some degree both risk-bearers and uncertainty-bearers, there are only a few people who are professional uncertainty- bearers. We call them *entrepreneurs*. These people forecast the economic future and then buy and sell goods and services in terms of their forecasts in order to profit from their hoped-for accurate knowledge. When successful, they reap profits. When unsuccessful, they reap losses. Because the kinds of events they deal with have not yet been successfully converted into risk events, the market does not enable investors to deal with these events in a scientific, analytical manner. We call such events high-risk events, but this is incorrect analytically. They are uncertain events.

Lenders who seek a legally predictable rate of return lend money at interest. In contrast, investors who are willing to put their money "at risk"—really, *at uncertainty*—in order to share in any profits must also share in any losses. The gains and losses of entrepreneurial ventures are not predictable, or at least not predictable by most people.[20] People who are uncertainty-aversive but not equally risk-aversive lend to people who are willing to bear uncertainty, but who prefer to gain the capital necessary to develop a venture by promising lenders a legally enforceable fixed rate of return. The distribution of risk and uncertainty to those who are willing to bear each of these is made possible through the market for loans. Those entrepreneurs who make statistically unpredictable breakthroughs that benefit society can be funded in their ventures by others who are unwilling to bear uncertainty but who are willing to bear some degree of risk. Without such a social institution, only two kinds of entrepreneurs could fund their ventures: (1) those with capital of their own to invest; (2) those who are willing to share their profits with co-owners of any discovery, and who also have the ability to persuade these investor-owners to put their money into the venture.

Conclusion

The more general language of this case law—*brothers in the faith*—has misled commentators for two millennia. This law must be interpreted in terms of the more narrowly focused reference point of the other

Ludwig von Mises, *Human Action: A Treatise on Economics* (New Haven, Connecticut: Yale University Press, 1949), ch. 6.

20. An entrepreneur who has discovered a way to deal with formerly uncertain events by means of proprietary or as yet not widely recognized statistical techniques is in a position to make a great deal of money until others discover or steal these techniques.

laws governing interest: *poor* brothers in the faith, as well as poor resident aliens, who have fallen on hard times through no moral fault of their own. This case law applied to charitable loans made to brothers in the faith and resident aliens who lived voluntarily under God's civil laws. It did not prohibit interest-bearing commercial loans. It did not apply to charitable loans to foreigners [*nokree*].

By failing to understand the context of the Mosaic laws against interest-taking, the medieval church placed prohibitions on all interest- bearing loans.[21] This drastically restricted the market for loans. It restricted the legal ability of people who were aversive to entrepreneurial uncertainty from making loans at interest. It thereby restricted the ability of entrepreneurs to obtain capital for their ventures. The result was lower economic growth for the entire society.

A New Testament principle broadens the restriction to all borrowers who are in trouble through no fault of their own. We must loan to those who may not be able to repay. "And if ye lend to them of whom ye hope to receive, what thank have ye? for sinners also lend to sinners, to receive as much again. But love ye your enemies, and do good, and lend, hoping for nothing again; and your reward shall be great, and ye shall be the children of the Highest: for he is kind unto the unthankful and to the evil. Be ye therefore merciful, as your Father also is merciful" (Luke 6:34–36).[22] The context is the merciful charitable loan, not the legitimate business loan. This is another example that explodes the myth of the Old Covenant as more rigorous than the New. In this case, the New Testament is far more rigorous than the Old.

Because of the broadening of this law to include covenantal enemies of God, the New Covenant lender must see to it that the borrower is truly in need. At zero interest, there is greater demand for loans than supply of them. At zero repayment, the demand is nearly infinite. So, the lender must exercise good ethical judgment in allocating charitable loans. The goal is to assist desperate people in their hour of need, not gain the money back. Even if a borrower may not

21. J. Gilchrist, *The Church and Economic Development Activity in the Middle Ages* (New York: St. Martins, 1969), Documents. Gilchrist provided translations of numerous texts, from Nicea (325) on, that dealt with usury. The premier study of the late medieval church's position is John T. Noonan, *The Scholastic Analysis of Usury* (Cambridge, Massachusetts: Harvard University Press, 1957). For a summary, see Noonan, "The Amendment of Papal Teaching by Theologians," in Charles E. Curran (ed.), *Contraception: Authority and Dissent* (New York: Herder & Herder, 1965), pp. 41–75.

22. Gary North, *Priorities and Dominion: An Economic Commentary on Matthew*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 10.

be able to repay, he is still entitled to consideration. But the lender must not lend money to subsidize evil. He must lend to those in desperate need. Otherwise, he will be out of loanable funds by the end of the day.

58

VOWS, CONTRACTS, AND PRODUCTIVITY

> *When thou shalt vow a vow unto the* LORD *thy God, thou shalt not slack to pay it: for the* LORD *thy God will surely require it of thee; and it would be sin in thee. But if thou shalt forbear to vow, it shall be no sin in thee. That which is gone out of thy lips thou shalt keep and perform; even a freewill offering, according as thou hast vowed unto the* LORD *thy God, which thou hast promised with thy mouth.*
>
> DEUTERONOMY 23:21–23

The theocentric principle illustrated here is the predictability of God's sworn promises. A vow is an oath. This law is therefore governed by an aspect of point four of the biblical covenant. But, as I hope to show, to the extent that this law relates to contracts, it is not governed by point four, but by point three: boundaries. It sets forth stipulations of what is agreed to among equals.[1] A contract is not the same as a vow. It is not invoked by an oath before God.

A. God's Predictable Word

God announced in Isaiah 45, a passage devoted to His sovereignty: "Look unto me, and be ye saved, all the ends of the earth: for I am God, and there is none else. I have sworn by myself, the word is gone out of my mouth in righteousness, and shall not return, That unto me every knee shall bow, every tongue shall swear" (Isa. 45:22–23). The New American Standard Version adds "allegiance" to the final sentence. There is no escape from God's sworn word. The reliability of God's word is absolute. He swears by His own authority. There is no higher authority.

1. Legal equals: the right of contract between people with legal control over property, including labor. Economic equals: each wants what the other has to offer.

Isaiah compared the predictability of God's word with both the predictability and productivity of the seasons. "For as the rain cometh down, and the snow from heaven, and returneth not thither, but watereth the earth, and maketh it bring forth and bud, that it may give seed to the sower, and bread to the eater: So shall my word be that goeth forth out of my mouth: it shall not return unto me void, but it shall accomplish that which I please, and it shall prosper in the thing whereto I sent it" (Isa. 55:10–11). The element of productivity in God's reliable word should not be ignored. Nor should the hierarchical aspect of His word, which can be seen in the words that introduce this section: "For as the heavens are higher than the earth, so are my ways higher than your ways, and my thoughts than your thoughts" (v. 9).

A sovereign God speaks an authoritative, hierarchical word, and this word accomplishes all that God proposes. God's spoken words are productive in history. More than this: they are the basis of progress in history. Cause and effect in history are grounded in God's covenants with men. Historical sanctions are applied by God in history in terms of men's responses to His authoritative word. Dominion is by covenant.[2] Covenants are established by judicial oath. The binding oath becomes the model for legally binding contracts. Contracts are also tools of dominion, but they are not established by an oath between God and men.

B. Productive Words

This was not a land law. It is a universal law, i.e., a cross-boundary law.[3] The law of the vow is still binding. God speaks, and the world responds. He spoke the universe into existence (Gen. 1). It is not enough to affirm that His word is absolutely sovereign from the creation to the final judgment and beyond.[4] We must also affirm that His word is productive. There was more to this world at the end of the

2. Ray R. Sutton, *That You May Prosper: Dominion By Covenant*, 2nd ed. (Tyler, Texas: Institute for Christian Economics, [1987] 1992).

3. On the categories of the Mosaic law, see Appendix J.

4. It is surely not enough to affirm that His word is relatively sovereign, i.e., sovereign except for substantial gaps of historical indeterminacy commonly known as man's free will. Pharaoh had no free will in opposing Moses: "For the scripture saith unto Pharaoh, Even for this same purpose have I raised thee up, that I might shew my power in thee, and that my name might be declared throughout all the earth. Therefore hath he mercy on whom he will have mercy, and whom he will he hardeneth" (Rom. 9:17–18). Judas had no free will in betraying Christ: "And truly the Son of man goeth, as it was determined: but woe unto that man by whom he is betrayed!" (Luke 22:22).

creation week than there had been at the beginning. There is progress in history because of His sovereign word, which He speaks prior to the events of history and above the processes of history. What God says He will do, He brings to pass. What He brings to pass is progress. History moves toward the final judgment, not randomly but according to God's sovereign decree. Nothing happens that is outside His decree.

In their public prayer to God, the disciples cited Psalm 2's description of the hopeless rebellion of the kings of the earth against God, and then applied this text to the crucifixion: "For of a truth against thy holy child Jesus, whom thou hast anointed, both Herod, and Pontius Pilate, with the Gentiles, and the people of Israel, were gathered together, For to do whatsoever thy hand and thy counsel determined before to be done" (Acts 4:27–28). Even in evil events there is progress in history. "The LORD hath made all things for himself: yea, even the wicked for the day of evil" (Prov. 16:4). *Progress in history rests on God's absolutely sovereign, absolutely comprehensive decree*. The kingdom of God advances in terms of His prior spoken word and His present sustaining providence, which corresponds in all details to His original word.

Man is made in God's image. He speaks as God speaks, but in a creaturely, representative way. The covenantal question is this: In the name of which god does he speak? Just as he is required to think God's thoughts after Him, so is he required to speak God's words after Him. After a man speaks, his subsequent actions are supposed to confirm his words, for God's actions invariably confirm His words. A man's actions are to testify to the reliability of his words. The more reliably he speaks, the greater his productivity because of his greater value to others. Other men can make plans confidently in terms of his words. Greater predictability makes cooperation less expensive. Where the price of something drops, more of it will be demanded. *The social division of labor increases as a result of the predictability of men's words*. Individual output per unit of input increases. Men grow wealthier. Greater wealth makes the tools of dominion more affordable.

The vow serves as the model of a contract. The words in a vow have greater authority than the words in a promise. The vow is made before God by means of an oath which implicitly or explicitly invokes the sanctions of God in history. The individual takes the vow on his own authority. There is no intermediary institution in between God and the vow-taker. It is not like a church vow, a civil vow, or a marital vow. A covenantal relationship between God and man is confirmed

by the presence of a vow to God. The oath's sanctions serve as the link between heaven's throne and history. This is why the person who vows before God must be sure that he fulfills the stipulations of his vow. God is the direct enforcer of negative sanctions against the vow-taker who defaults.

C. The Judicially Binding Authority of the Oath

"For the LORD thy God will surely require it of thee": this is an assertion of a threatened negative sanction. This threatening language identifies a promise to God as a vow. A vow is taken to God and then is enforced by God. The vow has covenantal authority. It is not the judicial equivalent of a contract made between men. It is a hierarchical, oath-bound contract between God and a person. He brings sanctions directly, for the oath invokes God's sanctions. The oath is *self-maledictory* ("bad-speaking"), calling down God's negative sanctions on the oath-taker should he fail to abide by the covenant's stipulations.[5] Thus, the vow has greater authority than a contract does, which invokes the state as the contract's sanctions-bringer. A contract is not lawfully sealed with a self-maledictory oath before God.

This case law is an extension of an earlier case law: "If a man vow a vow unto the LORD, or swear an oath to bind his soul with a bond; he shall not break his word, he shall do according to all that proceedeth out of his mouth" (Num. 30:2).[6] The word for "bind" is the same one used to describe what the Philistines did to Samson. The word is also used to describe harnessing a horse to a chariot. It is as if one's soul—the breath of life—could be tied down to a physical implement. Word and deed are bound together judicially. *This bond is two-fold: verbal and historical*. What a man says must correspond to the promised external deeds which he is subsequently required by God to perform. *These deeds invoke God's deeds*: sanctions, either positive and negative.

Cause and effect relationships in history are covenantal. This is why the structure of the covenant is the basis of biblical social theory. *Biblical social theory is inescapably judicial.* Having spent four decades in the wilderness under the negative sanctions that God had applied to their fathers, the Israelites of Joshua's generation should have begun to understand this. (Three thousand five hundred years later, so should Christian intellectuals, but they rarely do.)

5. Sutton, *That You May Prosper*, ch. 4.

6. Gary North, *Sanctions and Dominion: An Economic Commentary on Numbers*, 2nd ed. (Dallas, Georgia: Point Five Press, [1997] 2012), ch. 16.

A promise made to God is more binding legally than a promise made to man. It is sometimes lawful to break a promise to a man, for there is no absolute authority in a relationship of a man to another man, unless that promise is a covenantal vow, as in marriage. A good example of breaking a promise was Solomon's promise to his mother:

> Bath-sheba therefore went unto king Solomon, to speak unto him for Adonijah. And the king rose up to meet her, and bowed himself unto her, and sat down on his throne, and caused a seat to be set for the king's mother; and she sat on his right hand. Then she said, I desire one small petition of thee; I pray thee, say me not nay. And the king said unto her, Ask on, my mother: for I will not say thee nay. And she said, Let Abishag the Shunammite be given to Adonijah thy brother to wife. And king Solomon answered and said unto his mother, And why dost thou ask Abishag the Shunammite for Adonijah? ask for him the kingdom also; for he is mine elder brother; even for him, and for Abiathar the priest, and for Joab the son of Zeruiah. Then king Solomon sware by the LORD, saying, God do so to me, and more also, if Adonijah have not spoken this word against his own life" (I Kings 2:19–23).

Solomon realized that Adonijah was claiming the political inheritance for himself, for he was seeking marriage with the woman who had slept by King David to warm him. Adonijah was claiming continuity. He was attempting a political rebellion. Not only did Solomon break his word to his mother, he executed his older half-brother for this insurrection against his throne.

Solomon recognized this misuse of his civil authority by Adonijah. He humiliated his misused mother by breaking his promise to her, and then he executed his conniving half-brother. Adonijah had misused Bathsheba and intended to misuse the Shunamite girl. He was imitating Satan, who had used the serpent to deceive the woman in order to undermine her husband's lawful authority. Solomon recognized this tactic for what it was, and therefore had his brother executed.

Other kings were not equally wise—pagan kings. Darius, king of Medo-Persia, was tricked into promising to execute any man who prayed openly to God within a 30-day period. His advisors had devised this tactic in order to trap Daniel, who was immediately arrested and brought before the king. "Then the king, when he heard these words, was sore displeased with himself, and set his heart on Daniel to deliver him: and he laboured till the going down of the sun to deliver him. Then these men assembled unto the king, and said unto the king, Know, O king, that the law of the Medes and Persians is, That

no decree nor statute which the king establisheth may be changed" (Dan. 6:14–15). Centuries later, Herod followed in this pagan tradition with respect to his stepdaughter: "But when Herod's birthday was kept, the daughter of Herodias danced before them, and pleased Herod. Whereupon he promised with an oath to give her whatsoever she would ask. And she, being before instructed of her mother, said, Give me here John Baptist's head in a charger. And the king was sorry: nevertheless for the oath's sake, and them which sat with him at meat, he commanded it to be given her" (Matt. 14:6–9). Both men should have broken their promises. They had been misused by those under their jurisdiction. They became vulnerable to manipulators.

A king's word was not God's word. Only when God was invoked to confirm a lawful vow did the vow of a king take on the character of an unbreakable covenantal oath. What was true of a king was true for a lesser man. After the Israelites had made a covenant with the Gibeonites, who had tricked them, they upheld their words. First the vow: "And Joshua made peace with them, and made a league with them, to let them live: and the princes of the congregation sware unto them" (Josh. 9:15). Then the fulfillment: "And the children of Israel smote them not, because the princes of the congregation had sworn unto them by the LORD God of Israel. And all the congregation murmured against the princes. But all the princes said unto all the congregation, **We have sworn unto them by the** LORD **God of Israel**: now therefore we may not touch them. This we will do to them; we will even let them live, lest wrath be upon us, because of the oath which we sware unto them. And the princes said unto them, Let them live; but let them be hewers of wood and drawers of water unto all the congregation; as the princes had promised them" (Josh. 9:18–21).

God did not bring sanctions against Israel for having allowed a Canaanitic tribe to survive. On the contrary, He allowed the Gibeonites to serve the priests in the work of the temple. "And Joshua made them that day hewers of wood and drawers of water for the congregation, and for the altar of the LORD, even unto this day, in the place which he should choose" (9:27). When an alliance of Canaanite nations attacked Gibeon, presumably to make them an example for having surrendered to Israel, Gibeon called on Israel to defend them. Israel came to Gibeon's defense and routed the Canaanites (Josh. 10). God had told the Israelites not to spare any nation in the land. "And thou shalt consume all the people which the LORD thy God shall deliver thee; thine eye shall have no pity upon them: neither shalt thou

serve their gods; for that will be a snare unto thee" (Deut. 7:16). Yet Israel was oath-bound to spare Gibeon and even come to Gibeon's defense. This was the power of the covenantal oath under the Mosaic law. This was the authority of God's name, lawfully invoked.

D. Invoking God's Name

A covenantal oath has great authority because God's name has great authority. This was what the rulers of Israel told the murmuring congregation. "We have sworn unto them by the LORD God of Israel." That was supposed to settle the matter. The matter was supposed to remain settled. Saul broke this oath with Gibeon some four centuries later. The Israelites living under David paid the consequences.

> Then there was a famine in the days of David three years, year after year; and David enquired of the LORD. And the LORD answered, It is for Saul, and for his bloody house, because he slew the Gibeonites. And the king called the Gibeonites, and said unto them; (now the Gibeonites were not of the children of Israel, but of the remnant of the Amorites; and the children of Israel had sworn unto them: and Saul sought to slay them in his zeal to the children of Israel and Judah.) Wherefore David said unto the Gibeonites, What shall I do for you? and wherewith shall I make the atonement, that ye may bless the inheritance of the LORD? And the Gibeonites said unto him, We will have no silver nor gold of Saul, nor of his house; neither for us shalt thou kill any man in Israel. And he said, What ye shall say, that will I do for you. And they answered the king, The man that consumed us, and that devised against us that we should be destroyed from remaining in any of the coasts of Israel, Let seven men of his sons be delivered unto us, and we will hang them up unto the LORD in Gibeah of Saul, whom the LORD did choose. And the king said, I will give them. But the king spared Mephibosheth, the son of Jonathan the son of Saul, because of the LORD's oath that was between them, between David and Jonathan the son of Saul. But the king took the two sons of Rizpah the daughter of Aiah, whom she bare unto Saul, Armoni and Mephibosheth; and the five sons of Michal the daughter of Saul, whom she brought up for Adriel the son of Barzillai the Meholathite: And he delivered them into the hands of the Gibeonites, and they hanged them in the hill before the LORD: and they fell all seven together, and were put to death in the days of harvest, in the first days, in the beginning of barley harvest (II Sam. 21:1–9).

God had not forgotten the oath made by Joshua and the rulers of Israel. Saul either forgot or believed that God would no longer hold him responsible for honoring it. God did not forget what Saul did. Negative sanctions—three years of famine—came on Israel many

years after Saul was dead. This was consistent with God's law: "The LORD shall make the rain of thy land powder and dust: from heaven shall it come down upon thee, until thou be destroyed" (Deut. 28:24). Atonement was required. David offered blood atonement: the execution of the seven heirs of Saul by means of hanging or crucifixion.[7] There were two sons (of Rizpeh) and five grandsons (born to Merab—not Michal, who died childless: II Sam. 6:23).[8] He spared Saul's grandson because of David's prior oath to the man's father (II Sam. 21:7). The Gibeonites counted the matter closed with the execution of Saul's heirs. The blood of their father was on the sons' heads, for their father was dead and beyond historical sanctions.

Then what about this Mosaic case law? "The fathers shall not be put to death for the children, neither shall the children be put to death for the fathers: every man shall be put to death for his own sin" (Deut. 24:16). Bahnsen dismissed it as not relevant here.[9] But how could it not be relevant? What circumstance rendered it inapplicable? Bahnsen appealed to the precedent of Achan: the sons died for the sin of their father. I agree with this line of reasoning. Bahnsen argues that the issue was the defilement of the land. I have taken a different approach. The judicial issue was sacrilege.[10] In Achan's case, the required sanction applied to the entire family. Why? Because none of them had broken publicly with their father. They were accomplices. The same applied to Saul's sons. They had not publicly disavowed their forefather, Saul, which would have required them to forfeit their non-landed inheritance. By renouncing their economic inheritance, they would have also renounced their guilt.

There is no biblical indication that the Mosaic laws of the vow have been annulled by the New Covenant. The New Testament strengthens the authority of the vow: the Son of God has confirmed the vow. "Also I say unto you, Whosoever shall confess me before men, him shall the Son of man also confess before the angels of God: But he that denieth me before men shall be denied before the angels of God" (Luke 12:8–9). To *deny* Christ is to *disavow* Him. Paul warns: "It is a faithful saying: For if we be dead with him, we shall also live with him: If we suffer, we shall also reign with him: if we deny him, he also

7. Greg L. Bahnsen, "Law and Atonement in the Execution of Saul's Seven Sons," *Journal of Christian Reconstruction*, II (Winter 1975–76), p. 105.

8. *Idem*.

9. *Ibid*., p. 103.

10. Gary North, *Boundaries and Dominion: An Economic Commentary on Leviticus*, 2nd ed. (Dallas, Georgia: Point Five Press, [1994] 2012), Appendix A.

will deny us: If we believe not, yet he abideth faithful: he cannot deny himself" (II Tim. 2:11–13). The promised eternal sanctions—positive and negative—are grounded judicially on Christ's inability to deny Himself, His words, and His authority.

E. A Contract

A contract does not have the same degree of authority that a lawful covenantal oath possesses. A lawful covenantal oath invokes God as the sanctions-bringer. A contract invokes the state as the sanctions-bringer. The state does not possess the same degree of authority that God does. To elevate a contract to the status of a covenant is to elevate the authority of the state over God. Any assertion of *equality* here is a hidden assertion of *superiority*.[11] There cannot be equality with God; there is therefore no equality of a contract with a lawful covenant. Jesus warned about invoking God or the sacred implements of God to sanction a non-covenantal affirmation: "But I say unto you, Swear not at all; neither by heaven; for it is God's throne: Nor by the earth; for it is his footstool: neither by Jerusalem; for it is the city of the great King. Neither shalt thou swear by thy head, because thou canst not make one hair white or black. But let your communication be, Yea, yea; Nay, nay: for whatsoever is more than these cometh of evil" (Matt. 5:34–37).

The West's social contract theory since the late seventeenth century has placed the state at the pinnacle of power. Some versions invoke God; others do not. In none of them does the Bible gain authority over the terms of the social contract. This places some version of neutral civil law in authority, which in turn rests on a theory of mankind's rational corporate mind and also on a theory of the existence of universally acknowledged and binding moral standards, irrespective of the content of rival religious confessions. It also makes the state the sovereign interpreter and enforcer of the social contract's stipulations.

In Rousseau's contractual theory, statism is more pronounced than in Locke's version.[12] In Locke's contractualism, there can be a theoretical appeal to God, or to a higher law, or to the sovereign peo-

11. Consider bigamy. The second wife asserts equality with the first wife. The first wife knows better. She is the loser. She has become "used goods." She is Leah; the new wife is Rachel.

12. Robert A. Nisbet, *Tradition and Revolt: Historical and Sociological Essays* (New York: Knopf, 1968), ch. 1.

ple. But there is a theoretical question here: Who lawfully represents God or the higher law? The doctrine of *contractual representation* is necessarily a doctrine of *historical representation*. This is the question of the voice of authority. If the king does not hear a grievance from the people, Locke wrote, "the appeal then lies nowhere but to heaven . . . and in that state the injured party must judge for himself when he will think fit to make use of that appeal and put himself into it."[13] This does not settle the issue of conflicting voices in history. It merely defers it. Locke's god in the *Second Treatise* is not part of a covenantal relationship which is established in terms of revealed law and predictable corporate sanctions. How, then, does the aggrieved party know if he is in the right or if God will defend his cause?

By invoking the state, the aggrieved party to a voluntary private contract seeks to reduce the costs of enforcing the stipulations of the contract, but only in a society in which the civil authorities predictably uphold private contracts. The state enforces contracts as a way to reduce violence. It limits vendettas and families or clans in their quest for autonomous justice.

The state's enforcement of contracts has a side positive effect: a reduction in the costs of cooperation. This reduction in the costs of cooperation increases the likelihood of on-going cooperation among the parties to the contract. By lowering the parties' costs of enforcing compliance, the state encourages cooperation. It increases the predictability of men's outcomes. It thereby reduces personal risk (statistically predictable loss) in society by lowering the costs for men to pool risk and reduce risk's burden on any single participant to the contract. The insurance contract is the obvious example, but the same process of *dispersing risk* applies to contracts in general.

When the costs of gaining predictable law enforcement increase to such an extent that invoking the state's sanctions is more expensive than the value of the expected income stream offered by the contract, cooperation breaks down. *This is why self-government is crucial for sustaining a contractual society*. If the participants must resort to the state continually to gain mutual compliance, the legal costs and delays will increase so much that their cooperative venture fails. If any society relies exclusively on lawyers to interpret the law, the lawyers' guild will make full use of this monopoly. The society will fail to obtain predictable justice. It will fall.

13. John Locke, *Of Civil Government: Second Treatise* (1690), section 242.

Conclusion

Covenant-keepers are under the confessional vow of subordination as members of the church covenant. They are under an implicit vow to the state. In cases regarding courts and judgship, they may be under an explicit vow. Beyond this, they are not asked by God to take personal vows of service. They may lawfully do this, but they are not required to. Once a person takes a personal vow to God, he is bound by it. He must fulfill its terms. "If a man vow a vow unto the LORD, or swear an oath to bind his soul with a bond; he shall not break his word, he shall do according to all that proceedeth out of his mouth. If a woman also vow a vow unto the LORD, and bind herself by a bond, being in her father's house in her youth" (Num. 30:2–3). "When thou vowest a vow unto God, defer not to pay it; for he hath no pleasure in fools: pay that which thou hast vowed. Better is it that thou shouldest not vow, than that thou shouldest vow and not pay" (Eccl. 5:4–5). This is what Jesus told the Pharisees, pointing to Israel's rebellion and the Jews' looming loss of God's kingdom.[14] As with a covenantal oath, the vow is legally binding. God brings negative sanctions to those who do not comply with its terms.

A contract has less authority than a vow, but it has similar aspects: a sovereign enforcer (the state), a hierarchy of enforcement (representatives), stipulations, sanctions, and continuity. This means that a contract's terms are supposed to be honored by the participants. This theological aspect adds an element of authority to private contracts. *A biblical covenantal society will eventually develop into a contractual society*. Late medieval Christianity developed the legal institutions that established and have maintained the Western legal tradition.[15] This should come as no surprise.

Oath-bound covenantal vows before God make possible social cooperation by establishing the church, state, and family. A contract is analogous to a covenant. It has analogous effects. A contract increases the likelihood of social cooperation among men by lowering

14. "But what think ye? A certain man had two sons; and he came to the first, and said, Son, go work to day in my vineyard. He answered and said, I will not: but afterward he repented, and went. And he came to the second, and said likewise. And he answered and said, I go, sir: and went not. Whether of them twain did the will of his father? They say unto him, The first. Jesus saith unto them, Verily I say unto you, That the publicans and the harlots go into the kingdom of God before you" (Matt. 21:28–31; cf. 21:43).

15. Harold J. Berman, *Law and Revolution: The Formation of the Western Legal Tradition* (Cambridge, Massachusetts: Harvard University Press, 1983).

the costs of cooperating. It increases the precision of the agreed-upon deeds which men promise to perform. It makes it legal for the state to impose negative sanctions against those parties to the contract who fail to fulfill the terms of the contract. *Contracts lower the costs of cooperation, thereby increasing the amount of cooperation demanded*. Increased social cooperation increases the division of labor and therefore increases men's individual productivity and income.

59

FREE FOR THE PICKING

> *When thou comest into thy neighbour's vineyard, then thou mayest eat grapes thy fill at thine own pleasure; but thou shalt not put any in thy vessel. When thou comest into the standing corn of thy neighbour, then thou mayest pluck the ears with thine hand; but thou shalt not move a sickle unto thy neighbour's standing corn.*
>
> DEUTERONOMY 23:24–25

The theocentric principle undergirding this law is that God, as the owner of the creation, has the exclusive right to specify the terms of the leases that He offers to his stewards. He establishes boundaries.

A. Rural Leaseholds in Israel

This law announced certain terms of God's rural leasehold. It announced to the land owner: "You do not possess absolute sovereignty over this land. Your neighbor has the right to pick a handful of grain or grapes from this field. Your right to exclude others by law or force is limited." In this sense, God delegated to a farmer's neighbors the right to enforce God's claim of exclusive control over a *symbolic portion* of every field. The land owner could not lawfully exclude God's delegated representatives from access to his crops. The fact that he could not lawfully exclude them testified to his lack of absolute sovereignty over his property.

In the garden of Eden, God placed a judicial boundary around one tree. A symbolic portion of the garden was reserved by God. This boundary was there to remind Adam that he could not legitimately assert control over the entire garden. Over most of it, Adam did exercise full authority. But over one small part, he did not. It was off-lim-

its to him. Adam's acceptance of this limitation on his authority was basic to his continued residence in the garden. More than this: it was basic to his life.

God interacted with man on a face-to-face basis in the garden. He no longer deals with man in this way. Instead, God has established a system of representative authority that substitutes for a verbal "no trespassing" sign around a designated tree. The neighbor is God's agent who comes into another man's field and announces, in effect: "This field does not belong exclusively to you. As the original owner, God has a valid legal claim on it. So do I, as God's agent."

In this text, God forbade land owners from excluding visitors from their fields. A visitor had the right to pick something to eat during the harvest season. He lawfully reaped the fruits of another person's land, labor, and capital. The legal boundaries that delineated the ownership of a field did not restrict access by the visitor. The visitor had a legal claim on a small portion of the harvest. He had to appear in person to collect this portion. Put a different way, *outsiders were co-owners of a portion of every field's pickable crop*.

One question that I deal with later in this chapter is whether this law was a cross-boundary law rather than a seed law or land law.[1] If it was a cross-boundary law, then God was making this law universal in its jurisdiction. He was announcing this system of land tenure in His capacity as the owner of the whole earth, not just as the owner of the Promised Land.

B. Exclusion by Conquest

The Israelites were about to inherit the Promised Land through military conquest. Their forthcoming inheritance would be based on the disinheritance of the Canaanites. The specified means of this transfer of ownership was genocide. It was not merely that the Canaanites were to be excluded from the land; they were to be excluded from history. More to the point, theologically speaking, their gods were to be excluded from history (Josh. 23:5–7).

The Israelites would soon enjoy a military victory after a generation of miraculous wandering in the wilderness (Deut. 8:4). There could be no legitimate doubt in the future that God had arranged this transfer of the inheritance. He was therefore the land's original owner. They would henceforth hold their land as sharecroppers: 10%

1. On the difference, see Appendix J.

percent of the net increase in the crop was to go to God through the Levitical priesthood. This was Levi's inheritance (Num. 18:21).[2]

Before the conquest began, God placed certain restrictions on the use of His holy land: *the formal terms of the lease*. As the owner of both the land and the people who occupied it, God's restrictions were designed to protect the long-term productivity of His assets. Yet He imposed these laws for their sakes, too. Land-owning Israelites had to rest the land every seventh year (Lev. 25:4).[3] They had to allow poverty-stricken gleaners to come onto their land and pick up the leftovers of the crops (Lev. 19:9–10;[4] 23:22;[5] Deut. 24:21).

This passage further erased the legal boundary between the land's owners and non-owners. Whatever a neighbor could pick and hold in his hands was his to take prior to the harvest. He had legal title to this share of his neighbor's crop. This portion did not belong to the land owner. Ownership of land, seeds, and prior labor did not entitle him to that portion of the crop which a neighbor could pick and hold in his hands. That is, *his prior investment was not the legal basis of his ownership*.

God's promise to Abraham and the nation's military conquest of Canaan were the joint legal basis of Israel's rural land ownership. Legal title in Israel had nothing to do with some hypothetical original owner who had gained legal title because he had mixed his labor with unowned land—John Locke's theory of original ownership.[6] There had once been Canaanites in the land, whose legal title was visibly overturned by the conquest. The Canaanites were to be disinherited, Moses announced. They would not be allowed to inherit, because they could not lawfully be neighbors. The conquest's dispossession of the gods of Canaan definitively overturned any theory of private ownership that rested on a story of man's original ownership based on his own labor. The kingdom grant preceded any man's work. The promise preceded the inheritance. In short, *grace preceded law*.

The neighbor in Mosaic Israel was a legal co-participant in the kingdom grant. He lived under the authority of God. His presence in the land helped to extend the kingdom in history. The land was

2. Gary North, *Sanctions and Dominion: An Economic Commentary on Numbers*, 2nd ed. (Dallas, Georgia: Point Five Press, [1997] 2012), ch. 10.

3. Gary North, *Boundaries and Dominion: An Economic Commentary on Leviticus*, 2nd ed. (Dallas, Georgia: Point Five Press, [1994] 2012), ch. 23.

4. *Ibid*., ch. 11.

5. *Ibid*., ch. 22.

6. John Locke, *On Civil Government: Second Treatise* (1690), section 27.

being subdued by men who were willing to work under God's law. The exclusion of the Canaanites had been followed by the inclusion of the Israelites and even resident aliens. Canaan was more than Canaanites. It was also the land. The conquest of Canaan was more than a military victory; it was a process of kingdom extension. The fruits of the land belonged to all residents in the land. The bulk of these fruits belonged to land owners, but not all of the fruits.

In this sense, the resident who owned no land, but who had legal access to the land, was analogous to the beast that was employed to plow the land. "Thou shalt not muzzle the ox when he treadeth out the corn" (Deut. 25:4).[7] Although the neighbor was not employed by the land owner, he was part of the overall dominion process inside Israel. The fact that God had included him inside Canaan made it more difficult for those who served other gods to occupy the land. A man's access to the civil courts and to the fruits of the field gave him a stake in the land, something worth defending. Israel was no pluralistic democracy. It was a theocracy. No law but God's could lawfully be enforced by the state. Only God's name could be lawfully invoked publicly inside Israel's boundaries (Ex. 23:13). By remaining inside the land, a resident was publicly acknowledging his allegiance to Israel's God rather than to another god. He was acknowledging God's legal claim on him. God in turn gave him a legal claim on a small portion of the output of the land.

C. Jesus and the Corn

Verse 25 is the partial background for one of Jesus' more perplexing confrontations with the Pharisees.

> And it came to pass on the second sabbath after the first, that he went through the corn fields; and his disciples plucked the ears of corn, and did eat, rubbing them in their hands. And certain of the Pharisees said unto them, Why do ye that which is not lawful to do on the sabbath days? And Jesus answering them said, Have ye not read so much as this, what David did, when himself was an hungred, and they which were with him; How he went into the house of God, and did take and eat the shewbread, and gave also to them that were with him; which it is not lawful to eat but for the priests alone? And he said unto them, That the Son of man is Lord also of the sabbath (Luke 6:1–5).[8]

7. Chapter 63.

8. Gary North, *Treasure and Dominion: An Economic Commentary on Luke*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 8.

The Pharisees did not accuse the disciples of theft; rather, they accused the disciples of not keeping the sabbath. Had the disciples been guilty of theft, their critics would have taken advantage of this opportunity to embarrass Jesus through His disciples' actions, which the disciples had done right in front of Him. The reason why they did not accuse the disciples of theft was that in terms of the Mosaic law, the disciples had not committed theft. Their infraction, according to the Pharisees, was picking grain on the sabbath. Picking grain was a form of work.

1. David and the Showbread

Jesus' response was to cite an obscure Old Testament incident: David's confiscation of the showbread. The circumstances surrounding that incident are even more perplexing to the commentators than Jesus' walk through the field. David was fleeing from Saul. David lied to a priest and confiscated the showbread, which was always to be on the table of the Lord (Ex. 25:30).[9]

> Then came David to Nob to Ahimelech the priest: and Ahimelech was afraid at the meeting of David, and said unto him, Why art thou alone, and no man with thee? And David said unto Ahimelech the priest, The king hath commanded me a business, and hath said unto me, Let no man know any thing of the business whereabout I send thee, and what I have commanded thee: and I have appointed my servants to such and such a place. Now therefore what is under thine hand? give me five loaves of bread in mine hand, or what there is present. And the priest answered David, and said, There is no common bread under mine hand, but there is hallowed bread; if the young men have kept themselves at least from women. And David answered the priest, and said unto him, Of a truth women have been kept from us about these three days, since I came out, and the vessels of the young men are holy, and the bread is in a manner common, yea, though it were sanctified this day in the vessel. So the priest gave him hallowed bread: for there was no bread there but the shewbread, that was taken from before the LORD, to put hot bread in the day when it was taken away (I Sam. 21:1–6).

Jesus was implying that David had not done anything wrong in this incident, either by lying to a priest about his mission or by taking what belonged to God. David invoked the status of his men as

9. There was not enough bread to save their lives from starvation. These loaves were not, in and of themselves, crucial for David's survival. But as one meal among many, the bread was part of a program of survival. These loaves might not be the last ones confiscated by David.

holy warriors on the king's official business, which was why the priest raised the issue of their contact with women. David's answer—they had had no contact with women for three days—pointed back to the three days of abstinence prior to the giving of the law at Sinai (Ex. 19:15). David, as God's anointed heir of the throne of Israel (I Sam. 16), possessed kingly authority. Jonathan, Saul's formally lawful heir, had just re-confirmed his *inheritance-transferring oath* with David (I Sam. 20:42).[10] Because of this oath, David had the authority to lie to a priest and to take the showbread for himself and his men, even though Saul was still on the throne. David acted lawfully. David acted as Jacob had acted when he tricked Isaac into giving him the blessing which was lawfully his by revelation and voluntary transfer by Esau (Gen. 27).

The priest said that there was no common bread available. This indicates that this was a sabbath day: no cooking. There was no fresh bread or hot bread, which was why the showbread was still there: it had not been replaced by hot bread. So, David asked for holy bread on a sabbath. There was no question about it: he was asking for holy bread on a holy day in the name of the king. The priest gave it to him. On what legal basis? The text does not say, but David's invoking of Saul's authority indicates that a man on a king's mission possessed lawful authority to receive bread set aside for God if there was no other bread available. God had said, "thou shalt set upon the table shewbread before me alway" (Ex. 25:30). But this situation was an exception which the priest acknowledged as valid. The desire of the king's men superseded this ritual requirement.

Down through the centuries, Protestant Bible commentators have struggled with the story of David and the showbread. They have accused David of being a sinful liar. Puritan commentator Matthew Poole called David's lie to the priest a "plain lie."[11] John Gill, a Calvinistic Baptist and master of rabbinic literature, referred to David's lie as a "downright lie, and was aggravated by its being told only for the sake of getting a little food; and especially to a high priest, and at the tabernacle of God. . . . This shows the weakness of the best men, when left to themselves. . . ."[12] Neither commentator criticized David

10. The original covenant had been marked by Jonathan's gift of his robe to David, symbolizing the robe of authority, as well as his sword (I Sam. 18:3–4).

11. Matthew Poole, *A Commentary on the Holy Bible*, 3 vols. (London: Banner of Truth Trust, [1683] 1962), I, p. 565.

12. John Gill, *An Exposition of the Old Testament*, 4 vols. (London: William Hill Collingridge, [1764] 1853), II, pp. 196–97.

for taking the showbread on the sabbath, which was the judicial heart of the matter. Christ sanctioned this action retroactively, which puts Christian commentators in a bind. So, they focus instead on David's lie, just as commentators focus on Rahab's lie, while refusing to raise their voices in protest against the significant ethical issue: her treason. This is a common blindness among pietistic commentators: straining at ethical gnats and swallowing what appear to be ethical camels.[13]

The Pharisees did not criticize David's actions. Jesus cited this incident in defense of His actions. *His answer indicates that He was declaring His own kingly authority*. As surely as David's anointing by Samuel on God's behalf had authorized him to deceive a priest and take the showbread on the sabbath, so had the Holy Spirit's anointing of Jesus authorized Him to have His disciples pick grain on the sabbath. As surely as the king's men were authorized to eat the showbread on the sabbath, so were Christ's disciples authorized to eat raw grain on the sabbath.

2. Lord of the Sabbath

Jesus then took the matter a step further: He announced that He was Lord of the Mosaic sabbath. This meant that He was announcing more than kingly authority. *He was declaring His messianic heirship at this point: the son of man, Lord of the Mosaic sabbath*. If David, as the prophetically anointed but not-yet publicly sanctioned king of Israel, possessed temporary authority over a priest for the sake of his lawful inheritance of the throne, far more did Jesus Christ, as messianic heir of the kingdom of God, possess authority over the sabbath in Israel.

One thing is certain: the judicial issue was not grain-stealing.

D. A Foretaste of Bread and Wine

A visitor eats grapes in the vineyard, but he cannot lawfully carry them off his neighbor's property. He cannot make wine with what he eats. Neither can two hands full of grain make a loaf of bread. This case law does not open a neighbor's field to all those who seek a finished meal. A free sample of the raw materials of such a meal is offered to visitors, but not the feast itself. *This is not a harvest in preparation for a feast; it is merely a symbol of a feast to come*. To prepare a feast, productive and successful people must bring to the kitchen sufficient fruits of the field. The full blessings of God are displayed

13. Cf. Gary North, "In Defense of Biblical Bribery," in R. J. Rushdoony, *The Institutes of Biblical Law* (Nutley, New Jersey: Craig Press, 1973), especially pp. 838–42.

at a feast. This case law does not offer a feast to the visitor. It offers a full stomach to a person walking in a field, but not a feast in a home or communion hall. It offers sufficient food to a hungry man to quiet the rumblings of his stomach, but it does not provide the means of celebration. It offers a token of a future feast. It is symbolic of blessings to come, a down payment or earnest of a future feast.

Grapes and grain point to the sacramental nature of the coming feast: a communion meal. The two crops singled out in this law are corn (grain) and grapes. The disciples picked corn, not wheat. Corn can be eaten raw; wheat cannot. The fact that these two crops are the raw materials for bread and wine is not some random aspect of this case law. *This law pointed forward to the communion feast of the New Covenant*. The Mosaic covenant was, in effect, the grain and grapes that pointed forward to the New Covenant's bread and wine. The New Covenant's bread and wine in turn point forward to the marriage supper of the lamb (Rev. 19:9). The communion table of God brings together people of a common confession and a common community who look forward to the eschatological consummation of the kingdom of God in history at the end of time. So it was also in Mosaic Israel. The eschatological aspect of Deuteronomy, as the Pentateuch's book of the inheritance, provides a framework for interpreting this case law.

God gives to every man in history a foretaste of a holy meal to come: common grace. Not every man accepts God's invitation. Not every man is given access to God's table, either in history or eternity. The fellowship of God is closed to outsiders by means of a common confession that restricts strangers from lawful access to the table. But a free foretaste of the bounty of God's table at the consummate marriage supper of the Lamb is given to all those who walk in the open field and pick a handful of grain. A handful of this bounty is the common blessing of all mankind. This is the doctrine of common grace.[14]

The visitor is not allowed to bring a vessel to gather up the bounty of his neighbor's field. Neither is the covenant-breaker allowed access to the Lord's Supper. The visitor is allowed access to the makings of bread and wine. Similarly, the covenant-breaker is allowed into the church to hear the message of redemption. He may gain great benefits from his presence in the congregation, or he may leave spiritually unfed. So it is with the visitor in the field. "I take no man's

14. Gary North, *Dominion and Common Grace: The Biblical Basis of Progress* (Tyler, Texas: Institute for Christian Economics, 1987).

charity," says one visitor to a field. "Religion is a crutch," says a visitor to a church.[15] Such a willful rejection of either blessing indicates a spirit of autonomy, a lack of community spirit, and a lack of a shared environment.

E. Neighborhood and Neighborliness

Grapes and grain remain ripe enough to eat in the field only for relatively short periods of time. Either they are not yet ripe or they have just been harvested. The neighbor in Israel was not allowed to bring a vessel to carry away the produce. The presumption was that the neighbor was visiting, became hungry, and ate his fill right there in the field. This is what Jesus' disciples did. The neighbor, unless very hungry, did not walk over to the neighbor's house three times a day to get a quick meal. He had his own crop to harvest. If he was landless, he might come into a field and eat. He could even bring his family. The landless person would have gained access to free food, but only briefly, during the harvest season.

The two crops explicitly eligible for picking were above-ground crops. This law did not authorize someone to dig a root crop out of the ground. The eligible food was there, as we say in English, "for the picking." Were these two crops symbolic for all picked crops, or did the law authorize only grapes and grain? I think the two crops were symbols of every crop that can be picked in a field. The neighbor was like an ox that treaded out corn; he could not lawfully be muzzled (Deut. 25:4).[16] This meant that the hungry neighbor had a limited range of crops at his disposal. If he was also a local farmer, then his own crop was similarly exposed. His concerted effort to harm a neighbor by a misuse of this law would have exposed him to a tit-for-tat response. If he used this law as a weapon, it could be used against him.

Who was the neighbor? The Hebrew word, *rayah*, is most commonly used to describe a close friend or someone in the neighborhood. "Neither shalt thou desire thy neighbour's wife, neither shalt thou covet thy neighbour's house, his field, or his manservant, or his maidservant, his ox, or his ass, or any thing that is thy neighbour's" (Deut. 5:21). It can be translated as friend. "If thy brother, the son of

15. A good reason for not passing a collection plate in church is that visitors may believe that a token payment will pay for "services rendered." So, for that matter, may non-tithing members.

16. Chapter 63.

thy mother, or thy son, or thy daughter, or the wife of thy bosom, or thy friend, which is as thine own soul, entice thee secretly, saying, Let us go and serve other gods, which thou hast not known, thou, nor thy fathers" (Deut. 13:6). It was a next-door neighbor: "Thou shalt not remove thy neighbour's landmark, which they of old time have set in thine inheritance, which thou shalt inherit in the land that the LORD thy God giveth thee to possess it" (Deut. 19:14).[17]

But did it always mean this? In Jesus' answer to this question by the clever lawyer, He used the story of the Samaritan on a journey through Israel who helped a beaten man, in contrast to the priest and the Levite who ignored him (Luke 10). Jesus was arguing that *ethics*, not friendship, confession, or place of residence, defines the true neighbor. The Samaritan was the injured man's true neighbor because he helped him in his time of need.[18] The lawyer did not disagree with Jesus' assessment. He understood that this interpretation was consistent with the intent of the Mosaic law. This means that a law-abiding man on the road in Mosaic Israel was a neighbor. The crop owner had to treat a man on a journey as if he were a local resident. This included even a foreigner.

The Greek word used to translate *rayah* in the Septuagint Greek translation of the Old Testament is *pleision*, which means "near, close by."[19] This indicates that the Jewish translators regarded the neighbor as a local resident. The neighbor was statistically most likely to be a fellow member of the tribe. Rural land could not be sold permanently. It could not be alienated: sold to an alien. The jubilee law regulated the inheritance of rural land (Lev. 25). This means that the neighbor in Mosaic Israel was statistically most likely a permanent resident of the community.

Nevertheless, this law opened the fields to people on a journey, just as the Samaritan was on a journey. As surely as the Samaritan was the injured man's neighbor, so was the land owner the hungry traveler's neighbor. This law was a reminder to the Israelites that God had been neighborly to them in their time of need. After the exile, such permanent geographical boundaries were maintained only if the occupying foreign army so decided. Jesus walked through the field under Rome's civil authority, not Israel's.

17. Chapter 44.

18. North, *Treasure and Dominion*, ch. 21.

19. Walter Bauer, *A Greek-English Lexicon of the New Testament and Other Early Christian Literature*, trans. William F. Arndt and F. Wilbur Gingrich (Chicago: University of Chicago Press, 1957), p. 678.

Why would God have designated these two above-ground crops as open to neighborly picking? This law made neighbors co-owners of the fruits of a man's land, labor, time, and capital. The land owner was legally unable to protect his wealth from the grasping hands of non-owners. He was left without legal recourse. Why? What judicial principle undergirded this case law? What benefit to the community did this law bring which offset the negative effects of a limitation of the protection of private property? To answer this accurately, we must first determine whether this case law was a temporary law governing only Mosaic Israel or a permanent legal statute for all Trinitarian covenantal societies.

F. Seed Laws and Land Laws

Seed laws and land laws were temporary statutes that applied only to Mosaic Israel.[20] I have argued previously that the seed laws of the Mosaic covenant were tied to Jacob's messianic prophecy regarding Judah: "The sceptre shall not depart from Judah, nor a lawgiver from between his feet, until Shiloh come; and unto him shall the gathering of the people be" (Gen. 49:10). Seed laws and land laws served as means of separating the tribes, thereby maintaining the continuity of each tribe until the fulfillment of Jacob's prophecy, which rested on tribal separation.[21] The jubilee inheritance laws were land laws that were designed by God to accomplish this task.

One aspect of tribal separation was the creation of a sense of unity and participation in a larger family unit. Members of each tribe were linked together as descendants of one of Jacob's sons. There was an aspect of brotherliness within a tribe that was not shared across the tribe's boundaries. There is a social distinction between brotherhood and otherhood. Boundaries mark this distinction. The main boundary for Israel was circumcision, but tribal boundaries also had their nationally separating and locally unifying effects.

By allowing the neighbor to pick mature fruit, the Mosaic law encouraged a sense of mutual solidarity. The local resident was entitled to reap the rewards of land and labor. The land belonged ultimately to God. It was a holy land, set apart by God for his historical purposes. To dwell in the land involved benefits and costs. One of the benefits was access to food, however temporary. The staff of life in effect was free. In harvest season, men in Israel would not die of

20. Appendix J.
21. Appendix J.

starvation. But their source of sustenance was local: their neighbor's field. Would this have created animosity? Sometimes. Everything in a fallen world is capable of creating animosity. But what about the owner's sense of justice? It was his land, his effort, his time, and his seeds that had made this wealth possible. Why should another man have lawful access to the fruits of his labor?

One possible answer ties this law to the Promised Land. Israel was a holy land that had been set aside by God through a program of partial genocide. (God had specified total genocide, but the Israelites had failed.) The land was exclusively God's. It was His dwelling place. He fed His people on His land. God, not their own efforts, was the source of their wealth (Deut. 8:17).[22] Israel's holy status was still true in Jesus' day because of the temple and its sacrifices. But there is a problem with this explanation: strangers in Jesus' day dwelled in the land, and in fact ruled over the land. Furthermore, Jesus identified the Good Samaritan as a neighbor. The Samaritan therefore would have qualified as a man with lawful access to an Israelite's field. The Promised Land fails as the basis of this case law.

A second possible explanation is this: the tribes existed in order to complete God's plan for Israel. Local solidarity was important for maintaining the continuity of the tribes. Problem: this law was still in force in Jesus' day, yet the tribes no longer occupied the land as separate tribal units. The seed laws have nothing to do with this law.

Third, it could be argued that Israel was a holy army. An army does not operate in terms of the free market's principle of "high bid wins." In every military conflict in which a city is besieged, martial law replaces market contracts as the basis of feeding the population. The free market's principle of high bid wins is replaced by food rationing. Solidarity during wartime must not be undermined by a loss of morale. A nation's defenders are not all rich. *The closer we get to the priestly function of ensuring life, the less applicable market pricing becomes*. Problem: Israel was not a holy army after the exile. It was an occupied nation. Yet this case law was still in force. There was no discontinuity in this case between the Mosaic covenant and the post-exilic covenant.

If a Mosaic law was not a land law, a seed law, or a priestly law, then it was a cross-boundary law. This means that it remains in force in the New Covenant era. The problem is to identify in what ways this law can be applied in a relevant way in the New Covenant era.

22. Chapter 21.

G. The Farmer and the Grocer

The Mosaic law authorized a neighbor to pick grapes or grain from another man's field. It did not authorize a man to pick up a free piece of fruit from a grocer's table. What is the difference? What underlying moral or organizational principle enables us to distinguish between the two acts? In both cases, the "picker" wanted to eat a piece of fruit for free. He was not allowed to do this in the second case.

Let us consider the economic aspects of this law. Both the farmer and the grocer sought a positive return on their investments. The farmer planted seeds in the ground, nurtured the seedlings, and sold the crop to someone, possibly the grocer or his economic agent. The grocer made his money by purchasing a crop in bulk from the farmer or his economic agent, transporting it to a central location, and displaying it in a way pleasing to buyers. What was the differentiating factor? Time? Soil? Location? Money?

The difference seems to have been this: *control over rural land*. The farmer in Mosaic Israel worked the land. He cared for it directly. The grocer did not. The farmer profited directly from the output of this land. The grocer profited indirectly. The farmer had a unique dependence on the land. The grocer did so only indirectly, insofar as food that was imported from abroad was much more expensive for him to buy, except in Mediterranean coastal areas and regions close to the borders of the nation. The distinction between grocers and land owners may also have had something to do with the jubilee land laws.[23] Rural land was governed by the jubilee law. Urban real estate was not. Unlike urban land, prior to the exile, rural land was the exclusive property of the heirs of the conquest, though not after the return (Ezek. 47:21–23).

Those who lived on the land and profited from it as farmers were required to share a portion of the land's productivity with others, as we have seen. To this extent, the fruit of the land was the inheritance of those who dwelled close by. This law would have strengthened the sense of community in a society that was bound by a national covenant that was tied to land. The local poor would have had something to eat in the harvest—a sense of participation in the blessings of God. A brief safety net was in place. To gain access to a full safety net—a lawful bag in which to put the picked produce—the poor had to work

23. As I shall argue below, I do not think this was covenantally relevant: "Has This Law Been Annulled?"

as gleaners (Deut. 24:19–22).[24] While the state was not authorized to send crop collectors into the fields to collect food to redistribute to the poor, the Mosaic civil law did not enforce sanctions against those who came into a field to eat a handful of food. *It was not legal for land owners to impose physical sanctions against neighbors who took advantage of this law*. The civil law did not compel wealth redistribution in Mosaic Israel, but it defined the land owner's property rights in such a way that the state was prohibited from bringing negative sanctions against those who entered the field to pick a handful of the crop.

H. A Shared Environment

Let us consider a difficult application of this case law. Did this law open every man's fields to wandering hordes during a famine? Times of famine have been times of great disruption of the social order. Wandering bands of hungry people fan out across the countryside. Whole populations move from region to region in search of food. This happened repeatedly in Europe from the late medieval era until the late seventeenth century, and well into the twentieth century in Russia.[25] Similar famines have occurred in China in modern times.[26] Before the advent of modern capitalism, famines were a regular occurrence. Even within capitalist society, Ireland suffered a nearly decade-long famine in the 1840s. The absentee landlords in England did not foresee the threat to the potato crop posed by the blight at its first appearance in 1841. Over the next decade, these landlords paid for their lack of foresight with huge capital losses; a million Irish paid with their lives.[27]

Are wandering strangers in search of food the judicial equivalent of a neighbor? Is a desperate family on the road in search of food entitled fill their stomachs with a farmer's corn or apples? If enough of these people were to show up at harvest time, their economic effect would be comparable to a swarm of locusts. Locusts in the Bible are seen as the judgment of God (Ex. 10:4–6; Deut. 28:38). The land owner planted a crop and cared for it in the expectation that his family would eat for another season. Was he now required to sit idly by and watch strangers consume his family's future? Was the state prohibited by this case law from defending his interests? If so, then what

24. Chapter 62.

25. For a list of dozens of these famines, see Pitirim A. Sorokin, *Man and Society in Calamity* (New York: Dutton, 1942), p. 132.

26. Pearl S. Buck's novel, *The Good Earth* (1931), tells this story.

27. A good summary of the story is Christine Kinealy, *The Great Hunger in Ireland* (Chicago: Pluto, 1997).

would be his incentive to go to the expense of planting and nurturing his next crop? Would he even survive to plant again? Was Israel's society benefited by opening the fields to all comers in every economic situation? Was the nation's future agricultural output threatened by a definition of "neighbor" that includes an open-ended number of strangers in search of free food?

The goal of this law was the preservation of community. Its context was *a local neighborhood in which families shared the same environment*. A crop failure for one family was probably accompanied by a crop failure for all. Mutual aid and comfort in times of adversity were likely in a community in which every person has a symbolic stake in the community's success. These people shared a common destiny. This law was an aspect of that common destiny.

As for the Samaritan in the parable, he was not on the road for the purpose of stripping fields along the way. The Samaritan assisted the beaten man; he did not eat the last grape on the man's vine. The Samaritan found another man on the same road. They were both on a journey. They shared a similar environment. They were both subject to the risks of travel. The threat of robbery threatened all men walking down that road. What had befallen the victim might have befallen the Samaritan. It might yet befall him. Perhaps the same band of robbers was still in the "neighborhood": the road to Jericho.

Men who share a common environment also share common risks. When men who share common risks are voluntarily bound by a shared ethical system to help each other in bad times, a kind of social insurance policy goes into effect. Risks are pooled. The costs that would otherwise befall a victim are reduced by men's willingness to defray part of each other's burdens. But, unlike an insurance policy, there is no formal agreement, nor does the victim have any legal claim on the non-victim. The beaten man had no legal claim on the Samaritan, the Levite, or the priest. Two of the three ignored him. They broke no civil law, but their act of deliberately passing by on the other side of the road revealed their lack of commitment to the principle of community: shared burdens and blessings.

The ethics of neighborliness is mutual sharing when the resources are available. The ethics of neighborliness did not mandate that the state remain inactive when hordes of men whose only goal is obtaining food sweep down on a rural community. The harvest was shared locally because men have struggled with the same obstacles to produce it. The original struggle was the conquest of Canaan, which was

a tribal effort in each region. This law assumed a context of mutual obligations, not the asymmetric conditions in a famine, when the producers face an invasion from outside the community by those who did not share in the productive effort.

I. Community and Economy

One of the favorite contrasts of sociologists is community vs. economy. The most famous example of this in sociological literature is Ferdinand Tönnies' *Gemeinschaft und Gesellschaft* (1887), which he wrote at age 32. In this pioneering work, the author contrasted the small, medieval-type village with the modern city. He argued that the demise of the personal relationships of village life has led to the impersonal rationalism and calculation of the modern city.[28] He used the now-familiar analogies of organic life and mechanical structure to describe these two forms of human association.[29] He viewed the family as the model or ideal type of *Gemeinschaft*.[30] The business firm, which is a voluntary association established for a limited, rational purpose (profit), would seem to serve well as a model for *Gesellschaft*.[31]

In American history, there have been few defenders of *Gemeinschaft*. Thomas Jefferson heralded the independent yeoman farmer, but Jefferson was no advocate of village life. A group of intellectuals and poets known as the Nashville agrarians in 1930 wrote a brief defense of southern agrarian life in contrast to modern urbanism, but they have long been regarded at best as regional utopians, even in the South.[32] Karl Marx and Frederick Engels were contemptuous of "the idiocy of rural life,"[33] and most commentators have agreed with them. Most commentators have been urban.

The movement of vast populations from the farms to cities has been a continuing phenomenon worldwide, beginning no later than

28. He did not argue, as Marx and other sociologists and economists have argued, that it was the rise of capitalism that undermined the village life. Robert A. Nisbet, *The Sociological Tradition* (New York: Basic Books, 1966), p. 78.

29. Ferdinand Tönnies, *Community & Society (Gemeinschaft und Gesellschaft)* (New York: Harper Torchbooks, [1887] 1957), pp. 33–37.

30. Nisbet, *Sociological Tradition*, p. 75.

31. His theme—the transition from *Gemeinschaft* to *Gesellschaft*, from communalism to rationalism—became an integrating theme in the works of the great German sociologist, Max Weber. *Ibid*., p. 79.

32. *I'll Take My Stand: The South and the Agrarian Tradition* (Baton Rouge: University of Louisiana Press, [1930] 1977). Cf. Alexander Karanikas, *Tillers of a Myth: Southern Agrarians as Social and Literary Critics* (Madison: University of Wisconsin Press, 1966).

33. Karl Marx and Frederick Engels, *Manifesto of the Communist Party* (1848), in *Collected Works* (New York: International Publishers, 1976), 6, p. 488.

the Industrial Revolution in the late eighteenth century. The advancing division of labor was made possible by close contact in urban areas, the transportation revolution, the mechanization of agriculture, the revolution in electrical power, and government-funded road systems. This has concentrated populations in vast urban complexes.

The Bible promotes both cultures. The farms of Israel were held together as a civilization by the Ark of the Covenant, which was housed in a city. The New Heaven and New Earth is described as a city in which the tree of life grows (Rev. 22:2).[34] In the Old Covenant, the city was supported by the farms. In the New Covenant's imagery of the final state, the image is different: the city contains the tree. The tree feeds the inhabitants. The symbolism seems to be *from farm to city*. This was also the thrust of the jubilee legislation: ever-smaller farms for an ever-growing population.[35] Yet, covenantally, an heir of the conquest always had his historical roots in the land. The land was his inheritance. His name was associated with the land.

This judicial link to the soil ended with the New Covenant. The land ceased to be a holy place after the fall of Jerusalem. But the imagery of the tree of life, like the imagery of bread and wine, ties members of the New Covenant community to the soil. The preference of suburban Americans for carefully mowed lawns, of Englishmen and Japanese for gardens, of the Swiss and Austrians for flowers growing in window gardens and for vegetable gardens all testify to man's desire to retain his links to the soil from which he came.

There is a story told about the German free market economist Wilhelm Röpke. He was living in Geneva at the time. He invited another free market economist (said by some to be Ludwig von Mises) to his home near Geneva. He kept a vegetable garden plot near his home. The visitor remarked that this was an inefficient way to produce food. He countered that it was an efficient way to produce happiness.[36]

The division of labor is a powerful social arrangement. Specialization increases our economic output as individuals. We can earn more money per hour by specializing than by performing low divi-

34. David Chilton, *The Days of Vengeance: An Exposition of the Book of Revelation* (Ft. Worth, Texas: Dominion Press, 1987), ch. 21.

35. North, *Boundaries and Dominion*, ch. 24.

36. Russell Kirk said that Röpke said that it was Mises. In 1975, I heard the same story from another economist, Röpke's translator, Patrick Boarman. I do not recall that Mises was the target of the remark, but he may have been. See Kirk's 1992 Foreword to Wilhelm Roepke, *The Social Crisis of Our Time* (New Brunswick, New Jersey: Transaction, [1942] 1992), p. ix.

sion of labor tasks. But we also increase our dependence on the social institutions that have promoted the division of labor. Above all, we increase our reliance on banks, transportation systems, and other arrangements run by computers. We have delivered our lives into the hands and minds of computer programmers. The payments system is governed by fractional reserve banking. This is risky. There is an economic case for investing in a lower division of labor lifestyle with a portion of our assets and our time.

There is more to community than efficiency. Community is more than property rights. Community in Mosaic Israel was based on a series of covenants. The right of private property was defended by the commandment not to steal, but the definition of theft did not include eating from a neighbor's unharvested crop. This exception was unique to the land. It applied to a form of property that was not part of the free market system of buying and selling (Lev. 25). God was the owner of the land in Mosaic Israel. He set unique requirements for ownership of Mosaic Israel's rural land. These rules were designed to provide a brief safety net in an area of the economy in which it was illegal to transfer family ownership down through the generations.

In the final analysis, this law was far more symbolic than economic, for the harvest time would not have lasted very long. The sense of community had to be preserved in a system that restricted buying and selling. Those who did not own the best land or even any land at all had a stake in the success of local land owners, despite the law's restrictions of the permanent sale of inherited property. This symbol of participation in the fruits of the land was important for a society whose members celebrated the fulfillment of God's prophecy regarding the inheritance of a Promised Land.

J. Has This Law Been Annulled?

Is there any Mosaic covenantal principle whose annulment also annulled this law? We know that a similar law is still in force. Paul cited the law prohibiting the muzzling of the working ox, applying it to the payment of ministers. "Let the elders that rule well be counted worthy of double honour, especially they who labour in the word and doctrine. For the scripture saith, Thou shalt not muzzle the ox that treadeth out the corn. And, The labourer is worthy of his reward" (I Tim. 5:17–18).[37] But this case law applied more generally to the

37. Gary North, *Hierarchy and Dominion: An Economic Commentary on First Timothy*, 2nd ed. (Dallas, Georgia: Point Five Press, [2001] 2012), ch. 7.

Christian walk. "For it is written in the law of Moses, Thou shalt not muzzle the mouth of the ox that treadeth out the corn. Doth God take care for oxen? Or saith he it altogether for our sakes? For our sakes, no doubt, this is written: that he that ploweth should plow in hope; and that he that thresheth in hope should be partaker of his hope" (I Cor. 9:9–10).[38] There is a down payment in history—an earnest—of the covenant- keeper's kingdom victory in eternity. This down payment is an aspect of the inheritance (Eph. 1:10–14).

The tribal system was annulled in A.D. 70. Was this law exclusively tribal? The same kinds of psychological benefits seem to apply outside the tribal context: commitment to the community, a sense of participation in the blessings of this community, a willingness to defend it against invaders. What is missing today is Mosaic Israel's public exclusion of the names of other gods. A man's presence in the land does not, in and of itself, testify publicly to his willingness to serve under the law of God. The mobility of rival gods is like the mobility of the God of the Bible in the Old Covenant. The universality of their claims makes them different from the gods of the ancient Near East in Moses' day. To this extent, the situation has changed. But religions that claimed allegiance to universal gods appeared in the Near East and Far East at about the time of the Babylonian exile. Nevertheless, people in Israel in Jesus' day were still allowed to pick grain in their neighbors' fields.

This law seems to be a cross-boundary law. The neighbor, defined biblically, has a legal claim to a handful of any crop that he can pick. The biblical hermeneutical principle is that any Old Covenant law not annulled explicitly or implicitly by a New Covenant law is still valid. There seems to be no principle of judicial discontinuity that would annul this law.[39]

Conclusion

This law applies to rural land during the harvest season, but before the harvest takes place. The goal of this law was to increase the sense of community. Residents are supposed to know that they have a small stake—a symbolic stake—in the prosperity of the land.

38. Gary North, *Judgment and Dominion: An Economic Commentary on First Corinthians*, 2nd ed. (Dallas, Georgia: Point Five Press, [2001] 2012), ch. 11.

39. Because I see no judicial discontinuity between the covenants regarding this law, I conclude that the distinction between the grocer and the farmer was not based on the jubilee law, which has been annulled (Luke 4:18–22). North, *Treasure and Dominion*, ch. 6.

There seems to be no discontinuity between the two covenants with regard to this law. It was a theocratic law, but whenever a nation covenants with the Trinitarian God of the Bible, this Mosaic law is still binding. Its principles of ownership are morally binding.

The modern world is politically polytheistic. It denies legitimacy to the principle of civil theocracy. It also passes legislation that excludes neighbors from any man's field. It then extends the principle of exclusion to the nation itself. It creates "no trespassing" boundaries around the nation. Access to a man's field is analogous to access to the nation; the modern state is consistent in this regard. Immigration legislation excludes outsiders because they may become a threat to a national covenant that is not confessional. Immigrants may gain the vote and use the state to redistribute wealth. The same kind of exclusivism operates in laws legalizing abortion, which is another barrier to entry into the land.

This law testifies against geographical exclusivism because *this law is part of a system of covenantal order that is confessionally exclusivist*. Open borders are the rule for biblical theocracy: access to the visible kingdom of God in history. Here is the logic of "open borders openly arrived at." You may freely walk into a local church; therefore, you may also freely walk into the nation in which that church operates. Any Christian who promotes closed national borders is saying, in effect, "Until some church sends a missionary to your nation, or until your entire population has access to the Internet, you must content yourself with going to hell. Sorry about that."

The message of this law is clear: access to God's promised land is to be accompanied by access to the fields of the promised land at harvest time. This gives non-owners and non-citizens a stake in the maintenance of a biblically theocratic society. This law makes it clear that private property is not an absolute value in human society. Private property is an absolute right for God, as the boundary placed around the forbidden tree in Eden reveals; it is not, however, an absolute right for man. *Nothing is an absolute right for man, for man is not absolute*. This case law breaches the boundaries of rural land. Owners are not allowed to use force to exclude a neighbor from picking a handful of the crop to eat in the field. The state may not defend owners' legal title to this token portion of the crop. This means that they have no legal title to all of it. This is clearly a violation of libertarian definitions of private ownership.

Like the tree in the midst of the garden, this limitation on exclu-

sive ownership is minimal. It does not amount to much, economically speaking. God originally opened the entire world to Adam. He restricted only one tiny area of the creation as His own exclusive property. Adam may have concluded regarding this restriction on his authority, "It's not the money; it's the principle of the thing." Surely, this is how his fallen heirs think. They do not want God to interfere in their economic lives, except to give them more wealth, even at the expense of their neighbors.

There is no question: it is the principle of the matter that counts. The principle is this: *God is sovereign; man is not*. God has the final legal right to exclude access to His property; man does not. By means of this law, God tells owners of rural property that He, not they, has the final say regarding who has legal access to their land. The neighbor is *God's representative agent* in this declaration of sovereignty. He has the right to walk onto a neighbor's property and pick a handful of corn during the harvest season. The value of this corn is minimal. The judicial principle is fundamental. In this sense, this law is a recapitulation of the law governing the forbidden tree in Eden.

There are dedicated Christian defenders of some version of socialism or Keynesian interventionism who are always in search of a passage that restricts private ownership. They have yet to latch onto this passage. To them, I say: "Beware. This is a very hot potato." This law does not authorize open access for every occupation. It is limited to rural property. The principle of ownership here is not that the community at large has lawful title to a portion of every resident's output. The principle of ownership is that God is the cosmic Owner. Because He does not intervene visibly in history, unlike in Eden, He singles out representative agents who act in His name on behalf of the fundamental principle of ownership: God owns all things. To demonstrate His cosmic ownership, God restricts a landowner's right of exclusion. In doing this, He demonstrates His own right of exclusion. He excludes rural land owners' absolute right of exclusion. A neighbor's lawful access to a handful of corn judicially represents God's right to set the terms of exclusion, i.e., ownership.

What is significant judicially is this law's insignificance economically. There is nothing of great economic value involved, any more than the fruit of the forbidden tree was economically valuable in comparison to the wealth available to Adam in Eden. It really is the principle involved. It did not take much of value in Eden to sort out the judicial issue involved: God's absolute right of ownership. Similarly,

neither does it take much of value in the law of the open field to sort out the same judicial principle.

A Christian socialist may lawfully pick a handful of ideological corn from this law, but this will not sustain him for very long. At best, it is a snack. If his point is that there is no absolute right of private ownership in a godly society, he is correct. If his point is that a handful of neighborly corn is a valid representative case justifying the state's ownership of society's means of production, or taxation at a rate that would have made the Pharaoh of the oppression feel guilty, then our straws-grasping scholar is guilty of bringing in a mechanical reaper and stripping the field clean. He has moved from being a neighbor to being a thief. In this sense, he reflects the modern state.